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WINTER SPORTS—SKATING AT VAN CORTLANDT PARK

DRAWN BY MAX F. KLEPPER



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EDITORIAL PAGE

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ARE CHINA'S TROUBLES NEARLY AT AN END?

WHEN PRINCE CHING and Earl Li Hung Chang, two of the Commissioners appointed by the Chinese imperial authorities to negotiate the peace, accepted the list of preliminary conditions drawn up by the Ministers of the allied powers in Peking, it was taken for granted that peace was close at hand. As a matter of fact, the withdrawal of foreign troops from China and the restoration of order in that country seems still distant. It will be remembered that, while we have named the two representatives of the Emperor Kwang-Su and the Empress Regent, who are negotiating with the foreign Ministers at Peking, these personages have two non-resident colleagues; to wit, Chang Chih Tung, the Viceroy of Hupei and Hunan, who lives in Wuchang, and Liu Kun Yi, the Viceroy of Kiang-si, Kiang-su and Anhwei, who dwells in Nankin. These two men are the mightiest subjects in the Celestial Empire; they have at their disposal most of the vast resources of that populous and opulent part of the Yang-tse basin which lies east of Szechuen. The active negotiators at Peking were instructed to consult with them before entering into any agreement with the diplomatic delegates of the allied powers. It was presumed that they had done so, but there seems to have been a misunderstanding on this point. It now appears that, after the Empress Regent had, in compliance with the advice of Prince Ching and Earl Li Hung Chang, issued a decree accepting the terms proposed by the foreign Ministers, the powerful Viceroy of Hupei and Hunan, Chang Chih Tung, addressed memorials to the throne in which he counselled the imperial authorities not to accept the demands formulated by the foreigners. Curiously enough, his objections to the joint ultimatum are reported by cable to have been identical with those which had been previously made by a New York daily newspaper. Chang Chih Tung pointed out that the razing of the Taku forts, as distinguished from the dismantling and abandoning of them, was superfluous, while the establishment of foreign military posts, ostensibly for the protection of the lines of communication between Peking and the sea, as well as the stationing of large garrisons professedly for the defence of the legations, would, practically, furnish pretexts for the maintenance of a great standing army by foreign powers in China. Chang Chih Tung also protested against the prohibition of the importation of arms and ammunition into the Middle Kingdom. The enforcement of such a restriction, he said, would not only impair China's ability to restore and preserve order, but it would prevent her from ever regaining her independence. He further suggested that, if the foreign Ministers were afraid to live in Peking without guards, they might establish legations on the Yang-tse Kiang, under the guns of their warships. He added, what was perfectly true, that the assertion made in the preamble to the ultimatum framed by the allies, the assertion that hostilities had been ordered by the Court, was an insult to the Emperor Kwang-Su and the Empress Regent. It was certainly absurd to insert an insult in a proposal ostensibly meant to bring about a reconciliation. When we consider this wanton exhibition of insolence and spite, which never would have been made to the humblest European power, the numerous homicidal and predatory raids under German officers which have laid waste the neighborhood of Peking and, finally, the ribald demeritation of a temple which the Chinese regard as the Holy of Holies, we cannot avoid the suspicion that some of the foreign Ministers and generals are secretly desirous of obstructing the negotiation of a peace.

ON WHAT TERMS WILL WE PROTECT INDEPENDENT CUBA?

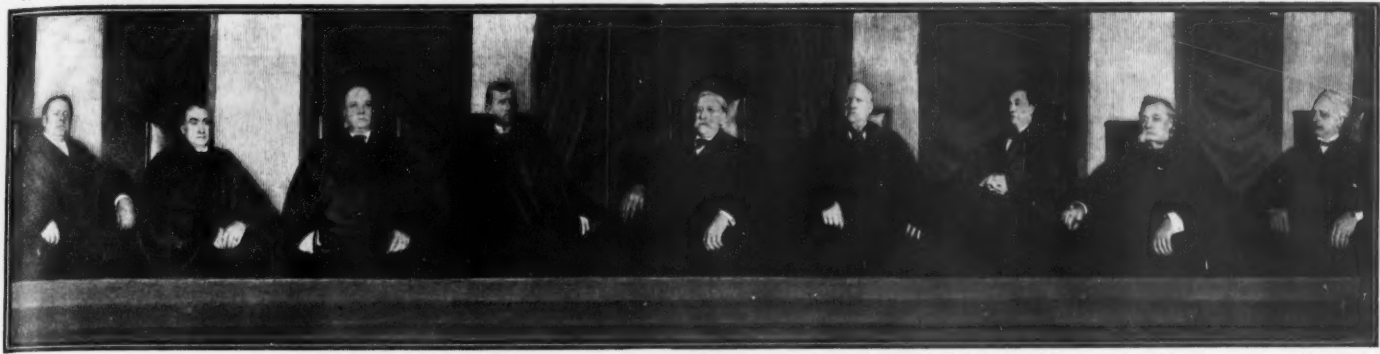
AT THE HOUR when we write we are not as yet acquainted with the details of the organic law which is in course of construction by the Cuban Constitutional Convention at Havana. We do not know how the future relations of the island to the United States are to be defined in that instrument; it is not even certain that the organic law will not be silent concerning them, and leave them to be determined from time to time by ordinary and quickly repealable legislation. One thing is obvious; namely, that, if Cuba desires access under profitable conditions to the United States markets for cane sugar and tobacco, which are her principal products, and if she desires us to protect her against all foreign aggression, she will have to give us in her fundamental law inalienable powers of supervision over her foreign policy and over her contracting of debt to the subjects of foreign governments. We are by no means dependent on the cane sugar of Cuba. We might easily exchange some of the Philippines—Mindanao, for instance, which at present is an incumbrance to us—for Jamaica and other West Indian islands now belonging to Great Britain. These acquisitions, from the moment that their raw sugars

should be admitted duty free to the United States, while a duty should continue to be imposed on similar commodities coming from foreign countries, would quickly drive their Cuban competitor out of the American market. Cuban sugar planters are already but too keenly aware that they can find no market for their product in Europe. What, then, lies before them but the prospect of utter ruin if they take no steps to propitiate the United States? As to the notion that the Monroe Doctrine would constrain us under all circumstances to protect Cuba against the collection of just debts, those who entertain this idea are reckoning without their host. As we showed in the case when the British took possession of a seaport and custom house in order to enforce the payment of a debt claimed from Nicaragua, we should never interpose unless the permanent occupation of American territory were contemplated. Should independent Cuba borrow an inordinate sum of money, in the belief that we would connive at her repudiation of the debt, she would find herself grievously deluded, for we should not move hand or foot to rescue the Havana custom house from the hands of a foreign creditor. These are facts by no means unknown to Cubans who possess common-sense, and who have some property to lose. Such men are acutely alive to the fact that one of the motives prompting the agitators who seem resolved to withhold from the United States every shred of control over the island is the secret desire to play the rôle of Ismail Khedive, and to plunge Cuba as deeply as Egypt was plunged into debt to foreign bondholders. We do not deny that, by virtue of the joint resolution of April 18, 1898, we are bound to permit Cuba to ruin herself if she shall so choose. If she insists, however, upon absolute independence, she must accept the gift with all its incidental drawbacks. It is by no means certain, for instance, that the European governments whose subjects are the holders of bonds aggregating several hundred millions of dollars for the payment of the interest and principal of which Spain pledged the revenues of Cuba, may not attempt to collect the debt by seizing the custom houses of Havana and Matanzas. Why should we interpose, if, meanwhile, the Cubans shall have treated us in a hostile and defiant, instead of a grateful, spirit?

WHAT WILL BE THE FATE OF THE HAY-PAUNCFOTE TREATY?

THE HAY-PAUNCFOTE TREATY, as amended by the United States Senate, has been presented by Mr. Joseph Hodges Choate, our Ambassador at the Court of St. James, to Lord Lansdowne, the British Secretary of State for Foreign Affairs. Is the treaty likely to be accepted by Great Britain in its amended form? As yet, it would be rash to venture a prediction on the point. We should bear in mind that, notwithstanding the unfavorable comment on the amendments made by the "Times," the "Standard" and other London newspapers which sometimes reflect official opinion, there are, as yet, no authentic indications of the attitude that will be taken by the British Government. That Lord Lansdowne will peremptorily reject the amended treaty, and allow it to be distinctly understood that England means to insist upon the rights which she acquired by the Clayton-Bulwer Convention, now fifty years old, seems to us improbable in view of the harassing complications in which England is at present involved. With more than 200,000 of her soldiers occupied in South Africa, and with large reinforcements needed in that quarter, she is in no position to quarrel with a great power. She is more likely to temporize, by suggesting that, if the proposed treaty is to be accepted in a form which, practically, would give the United States exclusive control of the Nicaragua Canal whenever they should find themselves at war, Great Britain may fairly ask for some compensation which might take the shape of such a change in our Alaska boundary as would give the inhabitants of Northwestern Canada access to the Pacific. It may as well be said once for all that the American people and their representatives at Washington will never sanction such a modification of the Alaskan frontier. They will never permit Great Britain to dominate Alaska by a naval fortress. The American people hold that the sole compensation which Great Britain deserves in return for her assent to the amended Hay-Pauncefote Treaty is our promise to construct, at our own expense, an inter-oceanic waterway which British ships would be at liberty to use on equal terms so long as Great Britain and the United States should be at peace. Now let us suppose that the British Foreign Office rejects the proposed treaty, or withholds a definite reply for an unreasonable period. What course are we likely to pursue? We certainly have no intention of constructing the Nicaragua Canal at our own expense so long as we are hampered by the provisions of the Clayton-Bulwer Treaty. It is true that Secretary Blaine and Secretary Frelinghuysen expressed the opinion that the

Clayton-Bulwer Treaty had been rendered voidable at our option through its violation by Great Britain when she erected the Woodcutters' Settlement in the Belize into a Crown Colony. If we ever had the option, however, we seem to have waived it, for the Clayton-Bulwer Treaty has been recognized as valid and binding, not only by President Cleveland, but, again, by President McKinley and Secretary Hay. There is, to be sure, a clause in the Hay-Pauncefote Convention, as amended, which declares the Clayton-Bulwer Treaty to be superseded. No international jurist, however, would concede that such an incidental *ex parte* declaration, if repudiated by the other party to the contract, can have the effect of annulling the document last named. Is there, then, no means by which the United States can extricate themselves from the entanglement for which Secretary Clayton and the Federal Senate in 1850 were responsible? It is, unfortunately, true that the treaty in question does not contain the usual denunciation clause giving either party the right to abrogate it after due notice. Must we, then, hold ourselves perpetually bound by obligations we ought never to have assumed? Have we not a right in international law to abrogate a contract long since obsolete and irksome by a one-sided declaration on our part? To this question widely different answers would be given in Europe on the one hand and in this country on the other. The powers which took part in the London Conference of 1871—that is to say, Great Britain, France, Russia, Germany, Austria, Italy and Turkey—agreed to recognize it as an essential principle of the law of nations that no power can liberate itself from the engagements of a treaty, or modify the stipulations thereof, unless with the consent of the contracting powers, by means of an amicable arrangement. It will be observed that, by concurring in this declaration, Russia acknowledged that she had proceeded *ultra vires* in taking advantage of the Franco-German War to announce that she would be no longer bound by a clause of the treaty which closed the Crimean War, the clause, namely, which forbade her to maintain a war fleet in the Black Sea. Had we taken part in the London Conference and ratified the action thereof, we should, unquestionably, have renounced the right to abrogate the Clayton-Bulwer Treaty by a one-sided declaration, if such a right had previously existed. As a matter of fact, we were not invited to participate in the London Conference, and, therefore, are not concluded by its utterance. It may be alleged, however, that the Conference merely recited a well-known and fundamental principle of international law, and that one party to a treaty never had the right to abrogate it, except by war, unless the treaty itself gave the right under specified conditions. That is, undoubtedly, the view of treaty obligations which is taken by many international jurists in England and on the Continent of Europe. On the other hand, it is not the view of the matter taken by Wharton, whose "Digest of International Law" is accepted as an authority in this country. Wharton says that a treaty may be abrogated by a one-sided declaration under a variety of circumstances: as, for instance, when the continuance of a treaty is conditioned upon terms which no longer exist; when one of the parties has refused to perform a material stipulation; when performance becomes physically or morally impossible; or when a state of things which was the basis of the treaty, and one of its tacit conditions, no longer exists. Not only are those who affirm the right of the United States to abrogate an inconvenient treaty sustained by Wharton's authority, but they can point to our exercise of the alleged right on more than one memorable occasion. Not only was the Jay Treaty between the United States and Great Britain a practical violation, and, therefore, a virtual abrogation, of the treaty previously existing between the United States and France, but, subsequently, by an act of Congress, approved by President Adams, on July 7, 1798, we announced in so many words that the United States were of right freed and exonerated from the stipulations of the treaties and of the consular convention theretofore concluded between the United States and France, and that the same should not henceforth be regarded as legally obligatory on the government or the citizens of the United States. With this precedent before us, it is plain, not only that the United States have formally asserted the right to abrogate treaties by a one-sided act, but that Great Britain profited by our exercise of that right. It appears, however, that, if we are to follow the precedent established in 1798, the abrogation must take the form of an act of Congress approved by the President; that is to say, while two-thirds of the Senate are needed to ratify a treaty, a majority of one in that body, supplemented by a majority of one in the House of Representatives, will suffice to abrogate it, provided the President does not veto the bill. It may be wise for the British Government to observe the facility with which we could rid ourselves of the Clayton-Bulwer obstacle, and to accept the Hay-Pauncefote Treaty, amendments and all. Better that than nothing.



DOES THE CONSTITUTION GOVERN?

By HENRY LOOMIS NELSON

THIS IS THE QUESTION argued on the 7th of January and the following days before the Supreme Court at Washington. Other cases involving one or two elements of the larger problem had been discussed before, and, in them, the Attorney-General had travelled over all the ground on his side of the line, but the whole question was not presented until the hearing of the several cases in which ex-Secretary Carlisle, Judge Choate, Mr. Laroque and other eminent counsel contended against the position of the Administration.

The question is the most important which has ever been argued before the Supreme Court. In all other great constitutional cases which have given a historic interest to the court room, the Judges have been asked to decide that the Constitution does or does not grant certain powers to Congress; in the present cases, which, for convenience, I shall speak of as the Porto Rican cases, the Court is called upon to assert or to deny the assertion that the Constitution is not the test of an act of the legislative or the executive branch of the government, when the law or the act is an exercise of jurisdiction over a territory, whether foreign and distant or inhabited by people of our own race and contiguous; for it must be understood at the outset that the contention of the Attorney-General applies to the Territories within our borders, as well as to Alaska, Hawaii, Porto Rico, Guam, and the Philippines. The argument of the Attorney-General, and therefore of the Administration, is that the government has certain inherent powers of sovereignty which are not affected, and cannot be limited by the Constitution which has created the government, which is the ordinance of the people who, in the belief of those who oppose the position of the Administration, constitute the true sovereign, the government being, in their minds, merely the agent of the sovereign with limited powers. It is the character of the question involved which makes these cases the most important that have ever been argued before the Federal Supreme Court; for if the Court upholds the Administration, it will declare the government to be very different in character from that which the fathers supposed they were founding and from that under which their descendants have imagined they were living. It will declare, in brief, that the government which is a republic at home may be an empire abroad, and that the constitutional President and Congress who have been elected to serve the people of the United States may, in addition to their domestic republican functions, exercise absolute power in colonies and over colonists. If, on the other hand, the Court decides that the Constitution follows the flag, the question of imperialism will be answered judicially, and probably the policy of the country will be settled adversely to the hopes and desires of the imperialists, although it does not follow that we shall abandon the Philippines simply because we must govern all territory under the restraints of the Constitution.

THE QUESTION STATED

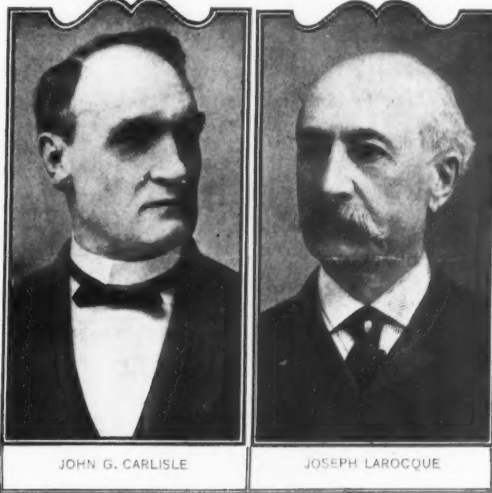
The cases, most of them coming from Porto Rico, arise under the taxing power of the government. There had been various stages in the political evolution of the island up to the time when Congress, on April 12, 1890, passed an act which provided a full civil government for Porto Rico. From the 26th of July, 1898, until the 19th of August in the same year the customs and tariff regulations of Spain and Porto Rico remained in force under the proclamation of General Miles. On the latter date the President issued his own customs tariff and regulations. These were amended on the 1st of February, 1899, and on the 1st of May, 1900, the tariff of Congress went into operation. This tariff act provides that "upon all the imports into Porto Rico from the ports of the United States there shall be levied, collected and paid customs duties at the rate of 15 per cent of the 'Dingley Tariff law.'" The same rates are levied on imports from Porto Rico to this country, while full rates are levied on goods coming to Porto Rico from a foreign country. The whole field of controversy

is opened in these cases. We have the question of the extent and character of the President's war power. As the war chief over a conquered territory, has he the right to decree a tariff, or any other tax? Has he the power to do anything toward the formation and maintenance of a civil government? But the main question that was argued, and the principal one that will be decided by the Court, is as to the power of Congress to legislate for the colonies without regard to the restraints and limitations of the Constitution which created it. The eighth section of Article I. of the Constitution provides that "all duties, imposts and excises shall be uniform throughout the United States." The third section of Article IV. pro-

which the United States promised to extend to the inhabitants of the ceded territories the rights and privileges of American citizenship. The people of the Northwest Territory were also guaranteed certain rights and privileges, notably the right to equal taxation, by the ordinance of 1787. These guarantees were confirmed by the first Congress. But all those rights pertaining to the people of Louisiana, Florida and the Northwest Territory were treaty or statutory rights, and, until Ohio, Illinois, Indiana, Wisconsin, Michigan, Louisiana, Florida and the other States subsequently made from all that vast territory conceded to the Federal Government by the States or obtained by treaty from France and Spain, actually acquired Statehood, it was clearly within the power of Congress, if the Attorney-General is right, to repeal the treaty and statutory privileges and to set up over their people any kind of government which it might see fit to imitate or invent. He contends that in the case of the purchases it was the treaty which gave to the people their rights and privileges and not the physical or political attachment of the land to the United States as part of our territory. Therefore, by the same process of reasoning, the Treaty of Paris is also superior to the Constitution, and the treaty-making power was well within its rights in refusing to extend the Constitution over the people of Porto Rico, Guam and the Philippines, and in leaving them to be dealt with by Congress. It must be understood, in passing, that the political rights of citizens under the Constitution are not the same in Territories as in the States, nor are they identical in the different States. However, all citizens, whether of Territory or State, have enjoyed certain personal rights which, under the Treaty of Paris, Mr. Griggs contends may be denied to the people of our new possessions.

COLONISTS NOT ENTITLED TO CONSTITUTIONAL RIGHTS

To make clear the true significance of Mr. Griggs's argument let us see the extent to which Congress may go, if he is correct in dealing with these people who, as he suggests, ought not to feel it a "disgrace" to be "subjects" of the United States. The Treaty of Paris provides that the "inhabitants of territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion." Nevertheless, in Mr. Griggs's opinion, Congress might, by law, establish a religion in these islands and set up a State church; it might abridge the freedom of speech, and of the press, the right of peaceably assembling, and the right to petition the government for a redress of grievances. Congress also might quarter soldiers on the inhabitants in time of peace; it might authorize searches and seizures of persons and papers unreasonably or without warrant based on probable cause. It might refuse them the right of trial by jury and the right to be confronted by the witnesses against them. It might authorize secret judicial processes, and set up all the most odious features of Latin police systems. Congress might also deny to the new possessions the benefits of our treaties with foreign powers, and of the laws enacted for the general welfare. It might, as Justice Harlan suggested, authorize the establishment and granting of orders of nobility. It might permit its colonial governments to enter into treaties and alliances to which the United States itself would not be a party. It could authorize the colonial government to impose port duties and charges which would discriminate between different States of the Union. It might refuse to extend the right of habeas corpus to the islanders. We would not, indeed, expect Congress to exercise such powers. The example of the President himself in arranging for the creation of a civil government in the Philippines sufficiently meets any fear of the assertion of such extravagant arbitrary power. But the President has in fact authorized the formation of a government in the Philippines, and has omitted from it any provision for trial by jury, as well as for the right to free trade between the islands and this country.



JOHN G. CARLISLE

JOSEPH LAROCQUE

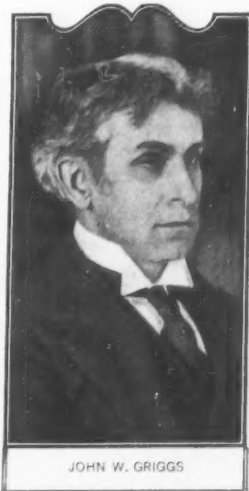
vides that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." It has also been held, and is the recognized law of the land, that the United States may acquire territory because it has the power to make war and the power to conclude treaties. These are the constitutional principles and provisions about which the controversy centred, although it would hardly be fair to the Attorney-General to say that he rested his claim of authority for Congress upon any provision of the Constitution. He went further afield and, as I have already said, took the position that the United States is a sovereign power and may acquire and govern territory as it will. He holds that territory once acquired, either by conquest or treaty, the territory so obtained, and its people, are not protected by the Constitution. The people are the subjects of Congress, which may enact laws for their government without regard to the limitations of the Constitution. He holds that the Constitution must be carried to the new territory by an act of Congress; that without such an act the people of the new territory may have only such of the rights of personal liberty as Congress may see fit to bestow upon them. In Porto Rico, Congress has seen fit to deny to its people the privilege of equal taxation, a denial which, as is seen from these very cases, seriously affects citizens of the United States who have gone to the island to transact business there as well as natives. It has given to the island other constitutional privileges, but as they are held to be legislative gifts, they may be withdrawn. At any rate, they are not rights, and the Attorney-General contends that they might all have been denied. He also holds that it was the intention of this government to regard as foreign and subject countries those dependencies of Spain which came to us by the Treaty of Paris. In Article IX. of that convention is the statement or agreement that "the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress." He claims the power of Congress from the treaty as superior to the Constitution.

GOVERNMENT OF COLONIES IMPERIAL

The contention of the Attorney-General, it will be seen, goes to the extent of excluding from the right to the protection of the Constitution all the territory of the country not included in the States. Congress, therefore, might have governed the Northwest Territory, or the Louisiana Purchase, or the territory acquired from Spain and Mexico, by laws or executive decrees after the fashion of Turkey or Russia, or old Spain, or French Canada—under any system of law, indeed, which it might prefer—were it not for certain provisions in the treaties with France, Spain and Mexico in



ELIHU ROOT



JOHN W. GRIGGS

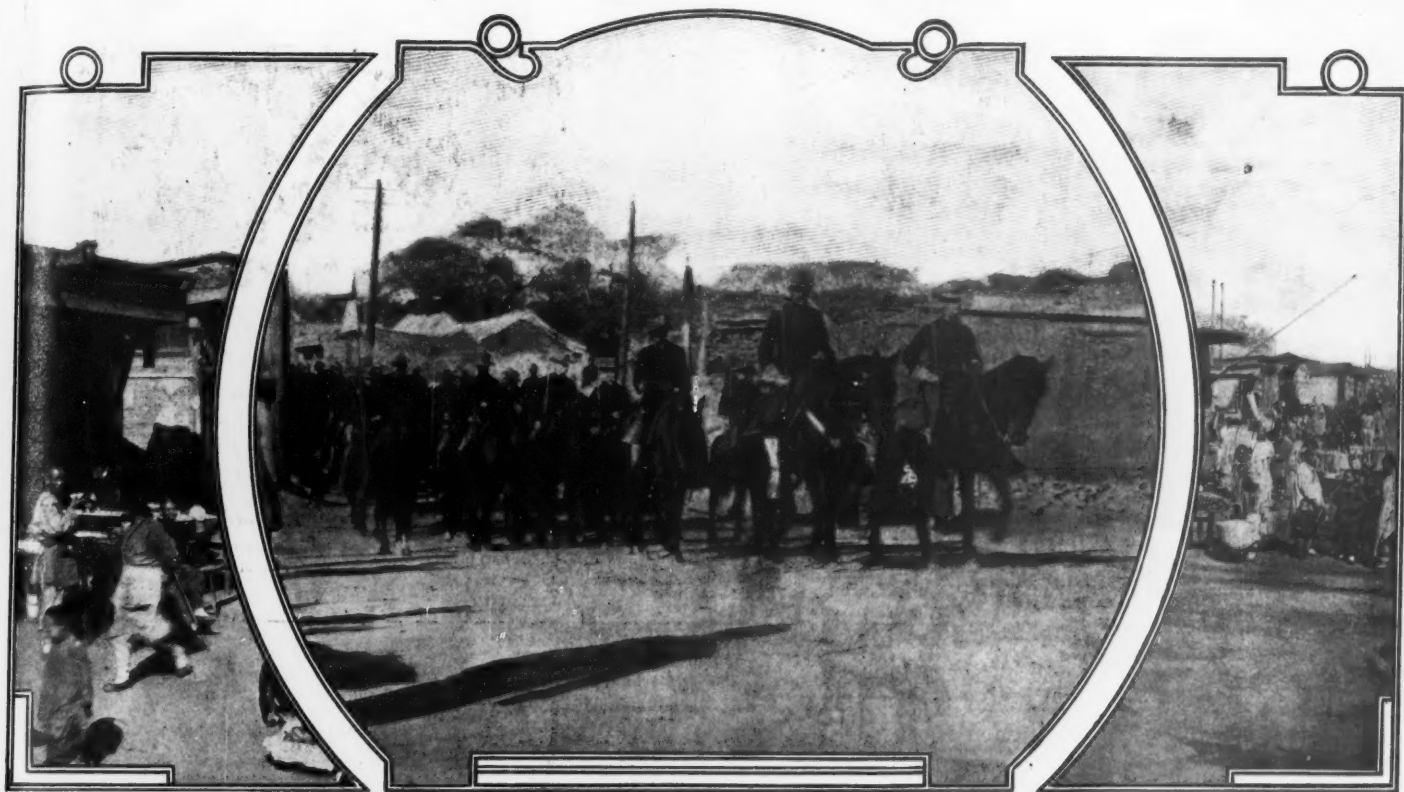


MARKET-DAY IN MANILA

DRAWN BY G. W. PETERS, MANILA

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A STREET-CORNER TEA-SHOP IN PEKIN

THE SIXTH U. S. CAVALRY LEAVING THE CITY OF PEKIN

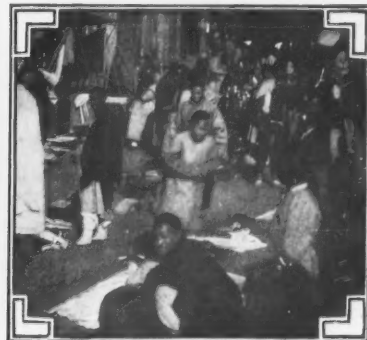
COOLIES IN THE MARKET-PLACE, PEKIN



IN A CHINESE CLOTHING SHOP



TRADERS AND SOLDIERS OUTSIDE THE CITY GATES



IN THE SHOPPING DISTRICT

WITH OUR ARMY IN THE ORIENT—Scenes in and around Peking during the departure of the Allies from the Chinese Capital

I am simply stating the logical conclusion of Mr. Griggs's argument in order to show, in the brief space at my command, the character of our government as the Administration understands it. In its view, the government and not the people is the sovereign in respect of these new possessions. It is also sovereign in Alaska and Hawaii, and has always been sovereign in all the territory ever possessed by the United States, checked only by treaties. Since, however, treaties are but laws and may be set aside by statutes, good faith alone standing in the way—a feeble defence one may truly say—there never was a time, if Mr. Griggs is right, during which all that part of the United States outside of the original thirteen States was territory, when Congress could not have denied to its people the rights guaranteed by the Constitution. Mr. Griggs does not contend that Congress has the disposition to do these things; he insists that it has the power. And it follows, of course, if the Constitution runs in any Territory, as in the District of Columbia, in New Mexico, or in Arizona, by the mere consent of Congress, and by a law, that the Constitution may be withdrawn from these people by a subsequent law. The Attorney-General, who was unfortunately bound very closely to his printed brief in the first argument, rather stumbled when Justice Brewer asked him if this did not follow from his argument, and he hastily said that the proposition had nothing to do with the question under discussion. He probably sees now that it is at the very crux of his contention, and that to say that a law which carries the Constitution to the colonies cannot be repealed is to go to the unheard-of length of holding that a Congress may pass an irrepealable law and therefore bind its successors. It is probable that he changed his opinion by the time of the last argument, and is ready to assume all the logical consequences of his position, which is that Congress is the absolute ruler in all Territories and may hold their people in complete bondage.

CONGRESS, NOT THE PEOPLE, SOVEREIGN

An examination of the immediate question involved fully explains the contention of Mr. Griggs. This question arises, as I have said, under the taxing power of the government. The Porto Rican act provides for the same rates of duties on articles from foreign countries imported into the island as are imposed on the same articles coming into the States. A lower duty is imposed on Porto Rican goods coming to the States. If Porto Rico is a foreign country for purposes of taxation, the law providing for lower duties upon imports from the island into the United States does not offend against the constitutional provision requiring duties and imposts to be uniform. The constitutional requirement of uniformity of duties and imposts, it ought to be explained, is a limitation upon the authority of Congress to provide for the general defence.

But if Porto Rico is a part of the United States, the Dingley law, so far as it provides for the general defence, must fall upon Porto Rico as it falls upon all other States and Territories. Therefore, a tax on imports into Porto Rico from the States must be unconstitutional if Porto Rico is United States territory, because there is no tax levied on imports from the States into Arizona, New Mexico, Alaska and the District of Columbia. Again, if Porto Rico is a foreign country, Congress is forbidden to levy a tax on our exports thither. If it is not a foreign country, Congress has no power to levy a tax on the commerce between one part of the country and another, whether between States or between States and Territories, so that the tax on commerce between Porto Rico and the States cannot be sustained. Again, if Porto Rico is foreign territory, there is no power granted to Congress to tax its people for any purpose. If the island is part of the United States, it is within the power of Congress to levy taxes for the conduct of its local affairs, and the Porto Rican act provides for the employment of all moneys collected under it for the needs of the island. It might possibly levy duties for that purpose upon imports into Porto Rico, but if it has that power they must be in addition to those levied for the general defence, which must prevail uniformly throughout the United States. But it cannot, even for local purposes, tax imports from the States into the island, because such a tax would fall on exports from the States, or an impost on commerce. Nor can it for this purpose lay a tax on imports from the island into the States, because it has no power to tax the people of New York or Boston or Philadelphia for the government of Porto Rico. All this being so, it follows necessarily that the Attorney-General's position rests wholly upon the ground that Congress and the President, although they derive their power to acquire territory from the Constitution, may govern the territory so acquired untrammelled by the restrictions and limitations of the Constitution. In other words, that they are absolute sovereigns and that the people of the territory are their subjects.

SOME OF THE PRECEDENTS

The Attorney-General devoted a very large part of his brief to the precedents upon which he rested his contention, but much of his authority is drawn from the debate in Congress on the purchase of Louisiana, and from Mr. Jefferson's correspondence with Mr. Gallatin and others on the subject. As is well known, Mr. Jefferson doubted the constitutional power of the government to acquire territory, and wished for an amendment to the Constitution authorizing the purchase. He went so far as to prepare two drafts of an amendment—the first draft declaring: "The province of Louisiana is incorporated with the United States, and made a part thereof," while the second declared: "Louisiana, as ceded by France

to the United States, is made a part of the United States." But he abandoned his effort to secure their approval by Congress, for he feared the result of agitation. There was no time to raise the question as to the power of Congress to govern absolutely. Possession of Louisiana was taken on December 20, 1803. The fact was announced to Congress on January 16, 1804. And on February 24 Congress passed the act extending the customs revenue system to Louisiana. This act went into effect thirty days later. During the three months, Mr. Gallatin, Secretary of the Treasury, collected duties on imports from Louisiana, and Mr. Griggs quotes him as authority for his contention, but he makes a mistake in saying that Mr. Gallatin was the "constitutional lawyer of Jefferson's Cabinet." Gallatin, as most of us know, was not a lawyer at all, and his opinion on a constitutional question carries no weight whatever.

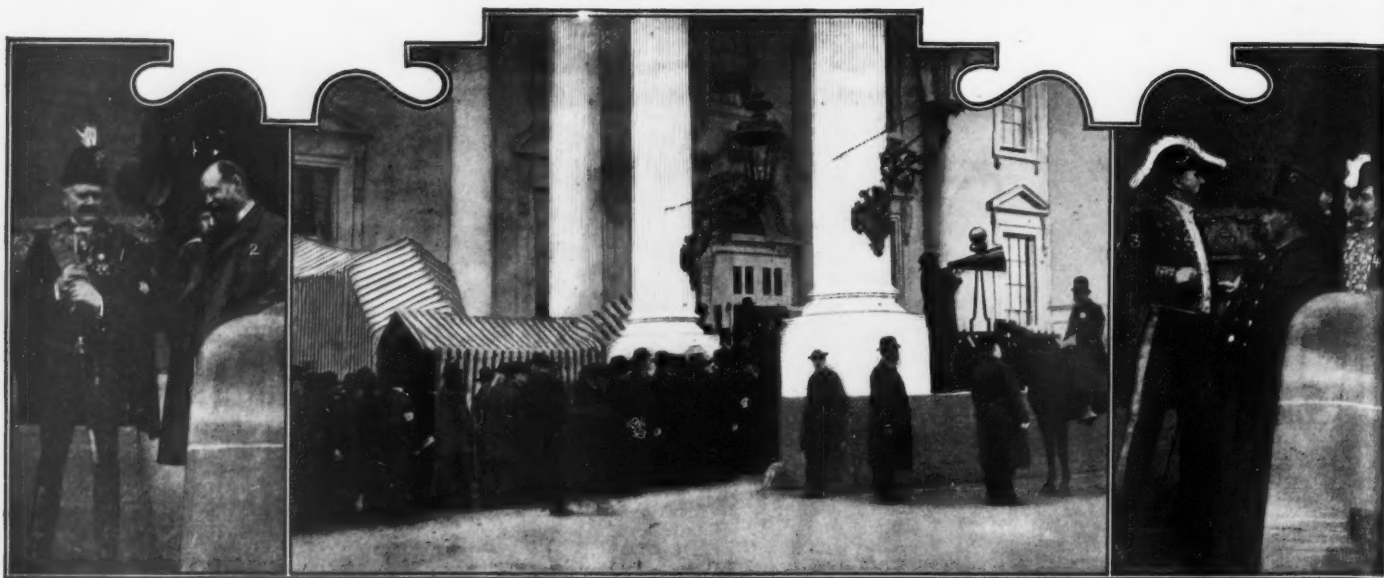
The Supreme Court has not passed directly on the question as to whether Congress must always obey the Constitution when it legislates, whether for Territories or States, but the Judges have uttered a number of *dicta* of more or less weight, in each instance, according to the character and standing of the Justice writing the opinion. A *dictum* of much importance, naturally, is that of Chief-Justice Marshall in *Loughborough vs. Blake*, in which the great Judge said:

"The power, then, to lay and collect duties, imposts and excises may be exercised, and must be exercised throughout the United States. Does this term designate the whole, or any particular portion of the American empire? Certainly this question can admit of but one answer. It is the name given to our great republic, which is composed of States and Territories."

If this were a judgment, the question would be absolutely settled by judicial decision. As it is, the contention of the Administration has the weight of the great Marshall against it.

In 1848, President Polk, Secretary Buchanan writing the opinion after careful study and deliberation, held that California was part of the Union and that before any act of Congress was passed goods coming thence into a State came free of duty. This Administrative decision was upheld in a *dictum* by the Supreme Court in *Cross vs. Harrison*, and the precedent was followed, in 1868, as to Alaska. The Attorney-General depends, also, upon the case of *Fleming vs. Pope*, but in this case the Court went no further than to hold that goods coming from Tamaulipas, in Mexico, which was in our military possession, were dutiable. The territory had not been ceded to the United States by treaty and the decision is simply, in effect, that the President cannot extend the boundaries of the country, or add territory to it, by his own act; that this can only be done by treaty or by act of Congress.

(CONTINUED ON PAGE 22)



BARON VON HENGELMULLER (1), AUSTRO-HUNGARIAN MINISTER, AND ASSISTANT SECRETARY OF STATE ADEE (2)

CITIZENS LINED UP AT THE ENTRANCE OF THE WHITE HOUSE WAITING TO CALL ON THE PRESIDENT

M. ARRIOGA (3), GUATEMALAN MINISTER, AND SENOR CALEVO (4), COSTA RICAN MINISTER



SENOR SANTIBANEZ (5), SECRETARY MEXICAN EMBASSY; SENOR PEZET (6), PERUVIAN SECRETARY, AND ATTACHES OF THE MEXICAN, TURKISH AND OTHER FOREIGN EMBASSIES



BARON GEVERS (8), NETHERLANDS; AMBASSADOR ASPIROS (9), MEXICO; SENOR GODOY (10), MEXICAN SECRETARY; SENOR RIANO (11), SPANISH LEGATION; SIDKY BEY (12), TURKISH EMBASSY; SENOR PASTOR (13), SPANISH LEGATION



SENATOR CHAUNCEY M. DEPEW



ADMIRAL GEORGE DEWEY (1), ASSISTANT SECRETARY OF THE NAVY HACKETT (2), COMMODORE RODGERS (3), LIEUTENANT CRAWFORD, DEWEY'S SECRETARY (4), ADMIRAL O'NEIL (5), ADMIRAL KENNY (6)



ASSISTANT SECRETARY OF WAR MEIKLEJOHN

THE PRESIDENT'S NEW YEAR'S CALLERS

WASHINGTON LETTER

BY
WALTER WELLMAN
SPECIAL CORRESPONDENT OF COLLIER'S WEEKLY



SENATOR W. B. ALLISON OF IOWA



SENATOR N. W. ALDRICH OF RHODE ISLAND

THE POWER OF THE SENATE

MORE AND MORE does the United States Senate endeavor to make of itself a sort of council of state. It is not content to be simply a co-ordinate branch of the legislative department of the government; it wants to be the real governing body of the country. And it is coming very near to a full realization of its ambition. People who have never lived in Washington do not understand the United States Senate. It is the pride of the members of that wing of our Congress that it is "the greatest legislative body on earth." Whether or not it is this, certainly it is the most peculiar. It is governed more by unwritten law than by its code of rules. There are hundreds of things which a Senator must not do, and it takes a good many members some time to learn what they are. The Senate has its code of ethics, fine-drawn, punctilious, tyrannical, and woe to him who violates the smallest part of it. Upon his head will be visited the direst punishment that can befall a member of the club—ostracism. Nominally the Senate is a great constitutional body. But in its personal and social aspects, in its decorum, ethics and traditions, it is a great club. Its leading spirits inculcate this club idea in the minds of all new members. They surround fledgling Senators with an atmosphere designed to put them in training and bring them up in the way they should go. Fortunate the new Senator who early in his career learns the lesson of humility and submission.

THE EXECUTIVE AND CONGRESS

The Senate is the one part of the legislative branch of our government which the men who control the executive departments are afraid of. They never have any fear about the House. They know they can get substantially what they want there. But the Senate is an uncertain customer. "The most provoking thing in the world," said a member of President McKinley's Cabinet to me the other day, "is the sort of treatment we get at the hands of the Senate. We fix up a scheme for our department. It represents the labor of our skilled men during months or perhaps years. It is the work of experts, and represents their best judgment as to what should be done in an expert matter. Well, it goes to Congress. As a rule, the House is somewhat reasonable. By convincing three or four leaders there of the merit of our plan we can usually secure its adoption. But the Senate tears it all to pieces. The prevailing idea at that end of the Capitol appears to be that it is its duty to interfere, to upset, to reverse, to change about, to put its impress upon any and every thing that comes before it; and it doesn't matter a rap whether the grave and reverend Senators know a thing about the affair in hand or not. If they do not know they will guess. Statesmanship in their eyes consists of stepping on some one's toes, in having a government of the Senate, by the Senate, and for the Senate."

This same Cabinet officer told me a somewhat remarkable thing, whereat I was much surprised and, I dare say, the reader will be even more astonished.

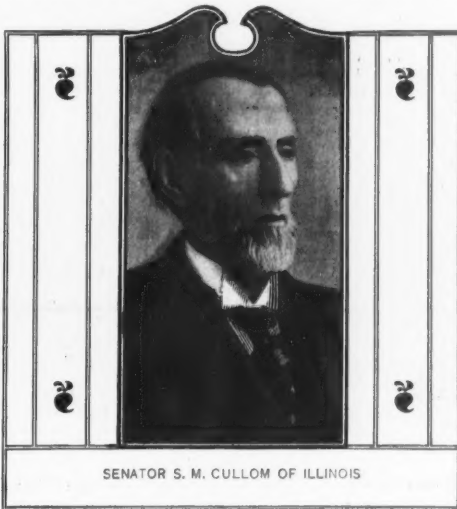
"In all the years that I have sat at this desk," he said, "I have not once had a visit from a Senator who came to make a call purely upon the public business. Senators come almost every day, sometimes by dozens and scores, but I have yet to see one whose purpose in calling upon me was a serious discussion of the affairs of the government with which my Department has to do. Plenty of them have pretended to have such a mission; they have sat in that chair where you are and gone through the form of talking of this measure or that, of this or that proposed change or improvement, but invariably as a prelude to the real object of their visit. I always know what is coming, and wait with as much patience as possible for it. 'By the way,' they always conclude with, 'about that appointment of So-and-So, can't we fix that up to-day?' Yes, every Senator that comes here is after an office for some constituent who, I suppose, has helped him through his Legislature or is expected to do so in future. There are times when I get so disgusted with this phase of Senatorial human nature that I am tempted to walk out that door, go straight to the White House, present my resignation, and never come back."

But I notice the esteemed Cabinet officer doesn't do it. As Senator Pritchard says waggishly: "He says, and does the best he can."

SENATOR ALLISON

The real leaders of the Senate on the Republican side—and the other side is now, comparatively speaking, a negligible quantity—are Allison of Iowa and Aldrich of Rhode Island. These two are sometimes spoken of as the Dr. Jekyll and Mr. Hyde of the Senate. Mr. Allison is the benevolent and handsome old gentleman who presides over the appropriation com-

mittee. He is the "father of the Senate," in that his term of continuous service exceeds that of any of his colleagues except Mr. Jones of Nevada, and Mr. Jones is only half a Senator at best, because he is in New York or out on the Pacific Coast most of his time. He and Allison entered the Senate the same day, and both have remained ever since, but Mr. Jones as a Senator is as the boy said about his father being a Christian, "Yes, he is, but he isn't doing much at it." The Senator from Iowa is at the head of the "steering committee" of the Republicans, the compact little organization which arranges the programme of business. He presides over all Republican caucuses. It is a tradition about the Senate that nothing can be done till "Uncle Billy" Allison has given his assent to it. The tradition is pretty well founded. Not much is done unless Uncle Billy approves it. He is a broad, big man. No taint of scandal ever touched him. He is in most respects an ideal public servant. Thousands of millions of appropriations have passed under his watchful eye, countless selfish interests seeking government favors have swarmed about him, but no one has dared to suspect that he could be made amenable to improper influences. Tiptoeing his way about with the tread of a cat—it was John James Ingalls



SENATOR S. M. CULLOM OF ILLINOIS

who said he could walk over a path of eggs and never crack a shell—with a smile for every one and an eye luminous and leonine, no one would ever suspect him of being the shrewdest and sharpest politician in the Senate.

SENATOR ALDRICH

Perhaps he wouldn't be if it were not for Mr. Hyde. Senator Allison has a wicked partner—Senator Aldrich. He is known as the man with the rapier. You do not always see the weapon. Its victims are rarely aware of its presence in their vicinity till it has done its fell work. But it is there, just the same. Aldrich has put through more bills for people he likes, killed more bills for people he doesn't like, than any other man in Congress. At times his methods are decried; but even his enemies are forced to admire the skill and success with which he plays the game. He is as courageous as he is adroit, and true to his friends. For some reason which no one could ever quite make out, he and Allison travel as a pair—they have a copartnership of friendship and brotherly love. Find one in a legislative deal which burrows its uncanny way beneath the surface of things to show its head only at the opportune moment, and ten chances to one the other is close at his heels. They are a marvellous couple. One would not go far wrong if he were to name them as the two most powerful men in the American government to day after President McKinley and possibly Speaker Henderson.

Senator Cullom and former Senator Quay, central figures in the Senatorial contests of the day, are old-fashioned statesmen. But they are of different sorts, nevertheless. Quay is one of the few remaining State leaders of the old boss type. He is a stalwart of the stalwarts. He has no other philosophy than that to the victors belong the spoils and not a smell for the other chaps. This is sometimes thought to be a very bad sort of philosophy, but when reduced to its softer euphemism of "standing by one's friends" it sounds better even if it isn't. Quay is a wonderful politician and manipulator of men. He has that indescribable something which makes other mortals believe in him and be ready to follow him to the ends of the earth. This is simply to say that he is a born leader. He is not a statesman. He is not a legislator. He is the incarnation of politics in its old-time, peculiarly American sense; which means knowing your friends are, taking good care of them, fighting your enemies to a standstill, and never forgetting to range all the powerful, man-owning corporations on your side, either through expectation of favors to come or fear of vengeance to be meted out.

SENATOR CULLOM

Cullom is different. He is amiability, good nature itself. Though a man of ability and capacity for constructive states-

manship, as was shown in his interstate commerce law and his work in Hawaii, most of his energies are exhausted in his rôle as the Washington errand boy for the State of Illinois. He is always after things for his people at home, and it doesn't appear to matter much what the things are or who wants them. He makes small discriminations between friends and foes, and as a result he has few enemies. Till he had a falling out with one of the men he had helped make, former Governor Tanner, it was not supposed there was a man in Illinois who would raise a hand to hurt him. That admirable gentleman and keen wit, Mr. Robert Roberts Hitt, chairman of the House Committee on Foreign Affairs, and lately one of Mr. Cullom's rivals for the Senatorial seat, once characterized the Illinois Senator in this happy way:

"Uncle Shelby is the sort of man every one is willing to say something mean about because he has been so useful. But the moment it is seriously proposed to defeat him for re-election the great State of Illinois rises up and asks: 'What? Defeat Shelby M. Cullom? Our Shelby? The man who has done all our running and chores for thirty years? Not much. We can't get along without Shelby Cullom down there at Washington.'"

OUR CONSUL AT PRETORIA

Adelbert Hay, American consul at Pretoria, is coming home in a few weeks, after having made a record in South Africa of which his countrymen as well as his friends have a right to feel proud. He has filled one of the most difficult posts in the consular service of any country with entire satisfaction to both Briton and Boer. Reports have come here from disinterested sources showing that he enjoys great popularity among all classes of people at the Transvaal capital, and that the Boers are loud and warm in his praise. They had feared he was going to be somewhat pro-English, but not a single complaint on that score, or indeed on any other, has come to hand. Which is pretty good for a young man not yet twenty-five, and who took the job against his father's wishes simply because he was tired loafing around and wanted to get out into the world and do something. When young Mr. Hay was named by the President to succeed Mr. Macrum at Pretoria some of the newspapers said all manner of ill-natured things about the selection. They wondered why some poor young man was not given this chance, and why the Secretary of State should "put his young son at the public crib," and so on. Now, apart from the good service young Mr. Hay has given at his post, and the credit he has reflected upon his country at a point where something of the sort was sadly needed, here is a bit of a story worthy a moment's consideration.

"I hear your son is coming home from Pretoria," said a Senator to Secretary Hay. "I don't suppose he has been able to save much of his salary out there, where living expenses are so high?"

"Save out of his salary?" replied the Secretary laughingly. "Let me tell you something. I was counting up the other day, and I found that it has required exactly his salary and mine to keep the young man at his post of duty."

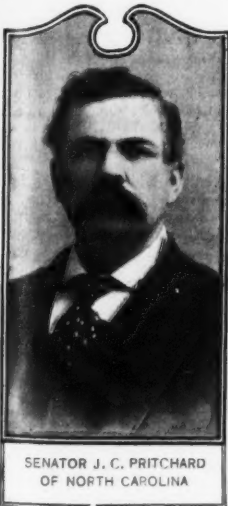
Perhaps it will be just as well for the newspapers not to say anything more, in this case at least, about putting the sons of high officials at the public crib.

STATE DINNERS

President and Mrs. McKinley are now engaged in giving a series of state dinners, one of the many pleasant duties imposed upon them by the unwritten laws of this republican court. The tradition is that the President shall entertain at dinner every Senator and Representative in Congress, as well as the members of his Cabinet, the Chief Justice and Associate Justices of the Supreme Court, and such other officials, army and navy officers and private persons as he cares to invite. Fortunately for him he is not called upon to entertain all these people in a single year. The Senate is a perpetual body, and as to its members the President is expected to ask each of them at least once to sit at his table. As a matter of fact he has entertained some Senators many times. It is quite a task to make the round of all the 357 members of the House, and, according to the unwritten law, this must be done every two years, or during the lifetime of a Congress. Actually there are Representatives who never get an invitation to the state dinners for the simple reason that they never call at the White House to pay their respects. In all, however, there are about six hundred persons in official life who are entitled to an occasional invitation to sit at the President's board, and in consequence the Chief Magistrate finds it necessary to give about a half-dozen formal or "state" dinners each winter.



ADELBERT HAY, CONSUL AT PRETORIA



SENATOR J. C. PRITCHARD OF NORTH CAROLINA

—are Allison of Iowa and Aldrich of Rhode Island. These two are sometimes spoken of as the Dr. Jekyll and Mr. Hyde of the Senate. Mr. Allison is the benevolent and handsome old gentleman who presides over the appropriation com-



OUT OF THE EAST

By FREDERICK PALMER



THE FIFTH OF A SERIES OF SHORT STORIES, BASED ON OBSERVATION AND EXPERIENCE IN THE ORIENT, BY THE WELL-KNOWN TRAVELLER, FREDERICK PALMER, FOR TWO YEARS SPECIAL CORRESPONDENT OF COLLIER'S WEEKLY IN CHINA AND THE PHILIPPINES. WITH ILLUSTRATIONS BY HOWARD CHANTLER CHRISTY

V—AS MAN TO MAN



ATE IS A STRONG WORD, BUT not too strong for the feeling of Private Haines of the Kansas toward his captain. It was the most uncomfortable kind of hate, that which festers in a rugged and outspoken nature by the compression of enforced silence. Haines had been a month in the home company of militia of Blashton, Gordon long enough to be a captain, when, at the outbreak of the war, the town passed into a furor of patriotism which promised social ostracism for any young man who remained at home. In the national organization, Gordon retained his rank; Haines remained in the file. It was not the only volunteer company that started out with the idea that war stood for rollicking comradeship, only to find that privates were privates and officers were officers.

Suffice it to say in Haines's case that he and the captain were in love with the same girl; and, moreover, that Haines had last seen her as the train pulled out of Blashton waving her handkerchief to the officers' car. In face of her repeated promises to write he had not received a word in response to his many letters. Suspicion had grown into conviction that the captain had used his position to destroy anything in her hand addressed to him. Brooding on the march by day and in his blankets at night had construed every act of the captain relating to himself into one of spite.

His assignment to the *Pepperbox* was the crowning humiliation. The *Pepperbox*, so named by the captain, was an antiquated harbor launch, remodelled into a gunboat for use on the Laguna de Bay, a lake whose waters the Pasig carries under the bridges of Manila. Nine feet beam and thirty feet over all, with a leaky boiler and a sputtering engine, a native pilot and a native engineer, the *Pepperbox* was not a thing of flight; painted leaden, with a Colt's automatic fore and a one-pounder aft and bulwarks of half-inch sheet iron, she was not a thing of power. Gordon had been chosen for her command because he was by profession a steamboat captain. Haines had been selected for one of the guard of five soldiers because he was a mechanical engineer. As Haines reasoned, however, the captain merely wanted an excuse for keeping his rival where he could still rub the vinegar of rank into open sores.

Gordon had run over too many bars in the Missouri not to be aggressive. His idea was to stir the insurgents up whenever he had an opportunity. That, he said, kept them thinking. The *Pepperbox's* first assignment was the carrying of orders to Lawton, who had taken an expedition by water to Santa Cruz, the capital of Laguna Province, half-way down the lake. On the return journey Gordon had stopped at Calamba, where he had enjoyed himself for half an hour by silencing the insurgent trenches. When he reported this to headquarters in Manila, expecting commendation for his enterprise, he was told in decisive language that his business was to carry despatches; that his armament was meant only to assist his escape in case of trouble, and that if he did anything of the sort again it would go hard with him.

Therefore, as the launch re-entered the lake at dawn the next morning he was not only as irritable as his crew from loss of sleep, but, the reproach still ranking in his mind, he was in a mood to agree with nobody. He told himself that he might as well be crocheting idles or towing coal out to Dewey as commanding the *Pepperbox*. Without any hope of excitement, he was in for worry all day and worry all night and complaints at both ends of the line because he never was on time.

While he sat in the bow, the men lounged in cramped positions in the stern. After the danger of running on bars at the entrance of the river was passed, in the hope of getting some sleep he stretched himself on the deck with the platform of the Colt's as a pillow, and called to Haines to let him know if anything unusual happened. The *Pepperbox* chugged on with Oriental endurance. Every throb of her engine affected to be a despairing, complaining last. It was some time before Haines noticed that the pilot was taking an altogether different course from the two previous trips. When finally he did observe that the launch was well into the centre of the lake and pointing toward the right shore instead of the left, he demanded an explanation of Manuel the pilot.

"All same. Go straight. No go round. *Mucho bueno* (very good). Me savez all ri?" was the reply in a mixture of pidgin English and Spanish.

Haines would have said no more if he had not noticed that the engineer was engrossed in the conversation. The engineer had the reputation of understanding English much better than he pretended. When he saw that Haines was looking at him he became most animatedly engaged with his duties.

"I believe you're up to some devilry," Haines exclaimed, and, forgetting his resolution, he seized the captain by the arm and shook him.

The captain woke with a start and a pounding headache. He instantly looked to the three essentials and found that the

launch was upright, going at her usual speed, and there was no firing.

"Well, what is it?" he asked irritably.

"Every time before we've gone just under the lee of that island yonder. Now we're going clear to the other side of the lake. I don't believe we've got eight feet under us."

"That's all right. We draw only four,—Manuel" (to the pilot), "why you go this fashion? We no belong over there?"

Manuel's jargon stated that Santa Cruz lay straight ahead around the point of beach and the village toward which the *Pepperbox* was being steered. So it did. He had previously followed the track of the big launches. Now he was taking advantage of the *Pepperbox's* light draught and a shallow channel which enabled him to cut off five miles.

"Yeh," piped the engineer, too absorbed in the subject to remember that he was ignorant of English. "Many times go so fashion. All time all same Spanish time. Me savez. No can go fast, no have go so far. *Mucho bueno, eh?*"

The captain was delighted at the prospect of delivering his message an hour less tardily than he had expected. It meant, if Lawton was very tired, that his "So you are here, eh?" would be a little more patient; or, if he was in good humor, his "Well! I never expected you back with that thing, captain. What did you do? Waik along the bank and tow her?" a little more jovial.

Haines forgot his position. He was conscious only that the captain was trying to argue him down.

"It's the first I've heard of this channel," he said. "The wonder is they didn't take it before. It would be easy enough for these two Gugus to run us on a bar and leave us stuck there to fight it out with three or four hundred that lay in hiding to jump us."

"Nonsense! They know that if they attempted anything of the sort our first act would be to blow their brains out."

"Well, a good many of 'em did try it on the night of February 4."

"That's all, Haines," said the captain sharply.

Blazing with anger, Haines made a salute of ironical deference which was not lost on his superior.

"You, Manuel, and you, engineer, there," the captain said, tapping his revolver, "you savez you play any tricks—one, two, bang bang! No more Manuel, no more engineer."

"Si, si. *Mucho bueno*," replied the engineer. "You savez me long time. All time Americano. No insurrecto. Goddam Aguinaldo. He no good."

Manuel was speechless and trembling with fear. His appearance and the engineer's protestations quite satisfied the captain, who lay down on the deck again. Manuel began timorously to change the course. But his hope of deceiving the engineer, who was grinning with confidence, was futile. If the captain had known what he said in Tagal to Manuel which caused him to point the bow dead on to the village again, he would have rushed to the wheel and turned it hard a port with his own hands. Instead, he lay idly gazing at the water, a victim of the difficulties of teaching and governing a race which can speak treason gleefully to the faces of their rulers. Meanwhile, the engineer partially uncovered something he had hidden in the coal and felt again in his pocket to make sure that his matches were there.

The *Pepperbox* was now so near shore that the little swells were breaking on the beach only a few yards away. At the same time as the men, the captain saw a heavy pole stuck in the bottom of the lake standing upright ten feet above the surface of the water and directly in front of the bow of the launch. All called to Manuel in a breath. He turned the launch sharply on the inshore of this mark, which had been set there for a specific purpose. As the captain sprang to his feet a dozen Mauser bullets fired from a trench on shore cracked by and the *Pepperbox* grounded and keeled over on her side. In his disgust, the captain first of all seized Manuel, who was already about to jump, and threw him overboard.

"Nolan, you can handle the one-pounder alone!" he cried. "I'll take care of the Colt, and every man Jack of the rest jump in and push her off. Once afloat, we'll coax our friends out here up to their necks and then throw a hailstorm into 'em."

The men were in the water and had their shoulders against the hull before they realized that the still revolving screw was driving the *Pepperbox* farther and farther into the sand. As Haines straightened up and yelled to the engineer to know why he hadn't reversed the engine, he saw him going overboard head first. Then he was tossed to one side, stunned by an explosion and blinded by coal-dust and spray.

The captain was hurled over the bow. As he wiped the water out of his eyes and looked at the cloud of steam and smoke which hung over the remains of the *Pepperbox* he remarked, in his Western drawl: "Well, the crockery's broken now, all right."

Then he saw the engineer swimming away, and drew his revolver and put a bullet through the engineer's head at the second shot. That poor creature was as much a victim as a

culprit. The half-breed agitators in Manila, too cowardly to undertake any masterly deed themselves, had assured him that the explosion would kill everybody on board, while he could save his own life by merely jumping out into the lake after lighting the fuse. He knew nothing of the nature of dynamite, which they had smuggled in from Hong Kong through Chinese merchants. They knew nothing of the nature of dynamite, with the difference that they pretended to know everything. It was easy for him to believe all they said in a land so long tongue-tied by Spanish rule as to make bold and imaginative lying under the new order of things the open way to insurgent leadership.

The fate of Manuel was worse than that of the engineer. He was so frightened by the decisive manner in which the captain threw him overboard that he forgot everything except awe of the white man's presence and will to do his bidding. He had placed his shoulder against the hull at the very point where the concussion burst the sides. His terribly mangled body served as a tuffer which saved the life of Haines, who was standing partially behind him as he called to the engineer. Haines's eyebrows were singed, his face and shoulder cut, the top of his hat sliced off by a flying piece of the boiler, his shirt torn and his face blackened. Nolan lay on the deck, the smokestack across his stomach and a sliver of steel through his forehead. His gun was dismounted and lying in the water. Simmons, standing nearly opposite to Manuel on the other side of the launch, met an equally sudden death. Worley, gashed and badly burned, was still alive. He had regained his feet and stood begging piteously for some one to put an end to his agony. Smith and Haines alone were fit for duty.

Captain Gordon had grasped the situation at once, but not before he heard a shout from the shore and saw forty or fifty insurgents rush out into the water. Smith and Haines could lay hands upon only one rifle in condition for use. While Haines took that, with the body of the launch as a breast-work, Smith helped poor Worley into the larger of the two *bancas* (dugouts) which were towed by the *Pepperbox*, and did what he could to relieve his pain. With odds of fifty against two, Gordon naturally chose the lesser evil of being killed with his face instead of his back toward the enemy. He clutched at the mechanism of the Colt—which still stood, though with the bolts of its support loosened, on the tilted platform of the deck—as a dying man clutches at a straw. It was in working order. A hundred rounds of ammunition remained. The rest had been destroyed by the explosion.

"One Colt is good for a regiment," said Gordon. "Haines, wait until they get up close! Wait till I give the word!"

On the insurgents came, yelling triumphantly as they splashed through the water, while the captain waited, his finger on the trigger and his eye glancing along the barrel. When they were within fifty yards he fired one shot to make sure of his aim. It was right. He jammed the elevating lever hard on.

"Now!" he cried to Haines; and while Haines's rifle cracked, tat-tat-tat the Colt spoke, as its barrel swung back and forth, distributing with mathematical impartiality its stream of leaden pellets.

This was a bitter and tragic surprise for the advancing manikins. The messenger from the great minds in Manila which had evolved the great plan said that all the manikins would have to do after the explosion was to take possession of the wreck and corpses. Some fired back; some fell in the manner of a man who trips over a wire in the dark; and in a moment all who were not dead or wounded scampered back to the cover of their trench.

Gordon did not hear the few bullets which passed as he fully exposed himself according to the American precept, that a shield for a machine gun prevents good marksmanship. He followed the retreating foe with enough fire to bring the lesson home. Then he counted the cartridges remaining in the belt, sixteen in all.

"How many shots have you left?" he asked Haines.

"Ten," was the reply.

The captain looked around in all directions, as if to ascertain what next was in store for him. Behind a bluff three miles or more away he saw a column of smoke. He knew that this must come from the stack of the *Gasinan*, a much larger improvised gunboat, which was proceeding in his direction. A quarter of a mile away from the village, along the road leading from the interior, he saw a column of about two hundred insurgents. In the second and more determined attack which was sure to come they could reach the wreck of the *Pepperbox*, despite all he could do with his sixteen cartridges, long before the *Gasinan*, which carried a twelve-pounder and two six-pounders and two Colt's, would be in range.

"Haines, you and Smith take Worley in the large *banca* and make for the centre of the lake. The *Gasinan* will pick you up. I'll remain here."

"Don't do that, captain," Smith protested, while Haines in



HAINES . . . CARRIED GORDON TO THE STERN OF THE "PEPPERBOX"

silence took a water-soaked cigar from his pocket and began chewing it vigorously.

"Orders!" the captain rasped.

Smith had a mother at home to whom he was sending ten dollars of his "\$15.60 per." His death meant that she would be sent to the poorhouse. He obeyed. Before going he secured Nolan's watch and a few trinkets to give to Nolan's sweetheart at home. Haines still stood in the water with his rifle on the deck in front of him, chewing his cigar.

"Ain't you comin'?" called Smith.

"No," he replied.

"Man, you must," said the captain. "If you don't you'll be killed or taken prisoner, and that's worse."

"So will you. I'm going to stay, orders or no orders, by G—!"

"All right," the captain assented. "Go on, Smith."

Gordon was touched by what he took for Haines's loyalty. He now blamed himself for holding the grudge of rivalry against the private—but not for long. Haines leaped up on the deck as soon as Smith had paddled out of hearing. He threw his cigar into the water and turned on the captain.

"I've stayed for satisfaction, that's what I've stayed for!" he said. "There's time enough, if you've got any sand, for you to stand up to me, you —" and he used an expression which is unanswerable in words.

"Certainly," Gordon responded quickly, laying aside his revolver to give himself greater freedom.

"And those bars you set such store by," said Haines, indicating by a glance the captain's shoulder-straps.

"Don't you take my word there's no rank in this?" He tore off his open blouse, thus divesting himself of authority. "There, curse you!"

Such was his rage that Haines, poised on the balls of his feet, did not wait for the captain to assume a position of readiness, but struck at his jaw with all the initiative force

at command. Gordon ducked enough to prevent it from landing fairly, and instantly grappled with his adversary. Haines was somewhat proficient in boxing, while the captain knew only of the rough-and-tumble tricks of boyhood days in a country town. Haines was the more agile; Gordon was of sturdier frame, bigger bones and harder muscles.

All oblivious of the bullets which were again being fired from the trench, they grappled, each bending all his energy to overcome his adversary before the enemy should overcome them both. Gradually Gordon's superior strength began to tell. Realizing this, Haines tried to break away in order to strike a blow. The result was to give Gordon a good hip hold. With Gordon uppermost, the two fell against the platform of the Colt. Such was the impact that the loosened bearings gave way, precipitating the combatants into the water. With them went their last hope of defence, both the gun and the rifle.

Their positions being reversed by the fall, Haines was the first to rise. As he waited an instant for Gordon to come up he heard the yells and splashing of the insurgents as they approached in their second charge. Gordon made a staggering effort to ward off the blow aimed at him. As his fist came in contact with a bare spot where the army shirt was torn away from Gordon's shoulder, Haines saw a red blotch which told him of a bullet that had just entered the flesh. At the sight of it came a swamping sense of repugnance to the hatred and anger which had been in his heart. He had struck a wounded man who was making a fair fight. He felt the buoyancy of strength and sympathy to protect Gordon's life against all comers. As he lifted his adversary from the water he asked hoarsely for forgiveness.

"Take the banes! Save yourself!" the captain whispered. "It's all right for me. I must stay. I can't go back to face the regiment or the folks at home after such a blunder. But finish me! I don't want to fall into the hands of those infernal savages!"

Haines made no answer except immediate action upon a plan

for escape. He carried Gordon to the stern of the *Pepperbox*, and swinging the *banca* around so that the hull would be out of sight of the insurgents, turned it bottom side up and succeeded in getting the captain and himself underneath it just as the insurgents reached the wreck. There they were quite out of sight, and, by half kneeling, half standing, in a painfully cramped position, they could breathe, with the backs of their heads under water and their faces out of it.

The insurgents first of all busied themselves with the most important feature of their warfare—sacking the pockets of the dead before stripping them of their clothing, and slashing, kicking and spitting on the nude bodies. Haines was congratulating himself that they would not be discovered when a manikin leaped upon the bottom of the *banca*. Their heads were driven under water, and rose out of it to see two brown legs very near their own and a pair of brown hands on the gunwale. With his free arm Haines prepared to strike as soon as the manikin should try to overturn their poor fortress. At that moment there was a great splash not far distant. The brown legs leaped upon the deck. Then came a hurtling swish.

"That one passed over," Haines whispered cheerfully.

Then came a crack-ung-thr-t-t!

The *Gasinan*, coming on with the speed of her captain's wrath, had burst its third shrapnel fairly above the wreck; and the insurgents sought the shore.

As captain and private, both too weak to stand, lay on the deck of the *Gasinan*, her commander brought a letter to Gordon which had been sent care of the division instead of the regiment. After he had read it Gordon looked over to Haines. "Jim," he said, using the familiar address for the first time in a year, "Jim, I guess the war fever has died out in Kansas. My sister Minnie says she's engaged to Hicks, the lawyer, who stayed at home."

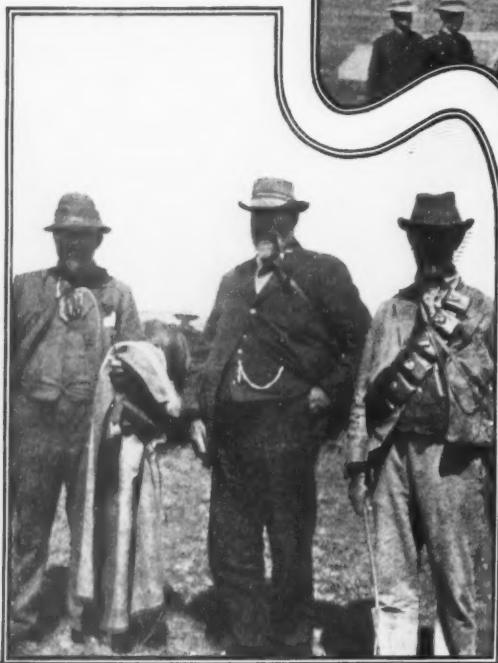
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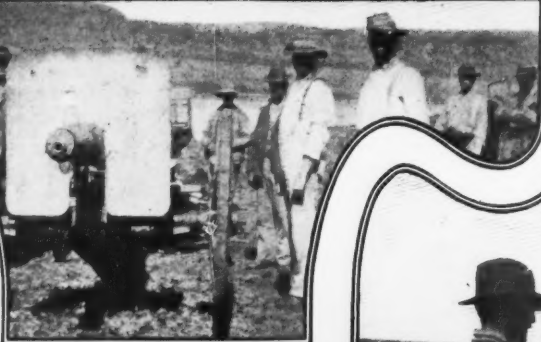


DE WET'S COMMANDO TREKKING

AMERICAN SCOUTS IN DE WET'S ARMY



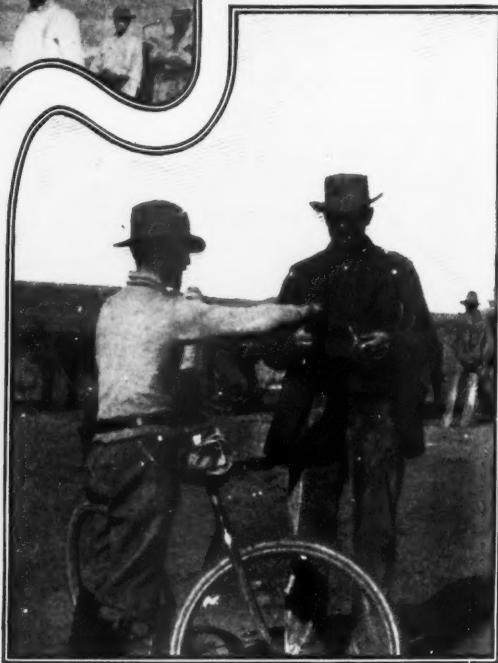
DE WET'S ASSISTANT GENERALS; GROEBLER IN CENTRE



MAXIM CAPTURED AT SANNA'S POST



A BOER LASS



GENERAL PETER DE WET RECEIVING A DESPATCH



PHOTOGRAPHS BY OUR CORRESPONDENTS

DISTRIBUTING BREAD AND RATIONS TO THE BURGHERS IN THE FIELD

CAMPAIGNING WITH DE WET IN THE FREE STATE

GENERAL DE WET'S GREAT RAID

HOW THE FAMOUS BOER LEADER SLIPPED THROUGH THE BRITISH CORDON AND FOR A MONTH SPREAD TERROR THROUGHOUT CAPE COLONY

BY COLONEL ARTHUR LYNCH, OF THE BOER ARMY

WHEN LORD ROBERTS retired from chief command of the British army in South Africa in order to seek a well-merited repose in England, it was generally agreed, in the British press at least, that the war was "over," and that Lord Kitchener had nothing left to do but to sweep up the stray bands of marauding Boers who still possessed rifles, and generally to put things in order. Lord Roberts, it is true, recommended that some ten thousand specially picked men should be sent out as reinforcements as soon as possible, and De Wet was still at large in the Free State. Toward the end of November, General De Wet and President Steyn were reported to be in the vicinity of De Wets Dorp, but they were being watched by General Knox, who had troops of élite under his command; and the British forces occupied all the posts along the Orange River from Alwal North to Orange River Station. De Wet, therefore, had no chance of getting out southward, and the iron cordon of troops was being steadily and surely drawn round him.

THE DE WETS DORP DISASTER

On November 29, however, news at length leaked out in London that a great disaster had happened a week before at De Wets Dorp, for the Boer chief had fallen unexpectedly on the garrison of that town and captured a troop of 400 men, comprised of detachments of the Gloucestershire Regiments, Highland Light Infantry and Irish Rifles—each of the parts of the United Kingdom thus contributing its little quota. De Wet also captured a couple of 15 pounders, with which subsequently he pounded away at a force sent to the rescue of the ill-fated garrison. De Wet was at that time believed to have 2,500 men. General Knox marched rapidly out from Edenburg, with 1,400 men, ostensibly to catch De Wet; but it is evident that had he come close enough to effect that purpose De Wet would have had at least an equal chance of catching him. General Knox therefore contented himself with getting between De Wet and the Orange River, and so cried "check." De Wet, however, does not understand the game of military chess; he is continually breaking the rules, and acting contrary to all established principles as known to the British generals. There is only one thing to be said for his tactics: they succeed.

A few days later, De Wet was near his old positions, a little closer to the British stronghold, and he had been joined by Hertzog with a strong commando.

Various other commandoes of Boers are about this time creating "diversions," as they are called, at various points in the north of the Free State and on the line between Mafeking and Kimberley, and British detachments are being hurried from point to point to relieve the positions attacked.

General De Wet then appears to have made a dash southward toward Rouxville, in the southeast corner of the Free State, and General Knox telegraphs that he has him corralled there this time and that his escape is impossible.

Lord Kitchener's first message, after taking supreme command, reports De Wet at Tafelberg, a little north of Bethulie, though this spot is at least one hundred miles by road from the place where General Knox believes he is pressing him hard.

I will subsequently explain these apparent discrepancies, but will in the meantime proceed with the curious narrative of De Wet's wanderings, as reported by the English generals.

However, about the same period, December 2, it should be noted that the activity of the Boers elsewhere in the Free State and in the Transvaal has enormously increased. Boer commandoes attack Boshof, an important place not far from Kimberley, and Commandant Haasbroek, who is acting under De Wet's orders, is close to Bloemfontein. The situation is so bad in fact, at this time, that a certain section of the English press urge Cecil Rhodes to come boldly forth with a plan to conciliate the Boers, and a few days later Mr. Chamberlain, in the House of Commons, promises that they shall be given a certain limited local government if they will lay down their arms. They will, for example, be allowed to put in the drain pipes of their smaller towns. The Boer, however, continues the fight.

THE ELUSIVE DE WET

On December 10, General Knox believes that he has De Wet hard pressed in a triangle of which two sides are formed by the swollen and impassable Orange and Caledon rivers, and the third side by the cordon of his own troops, strengthened

by detachments from all available quarters. On paper it certainly seemed as if De Wet's last day had arrived; but after considering the situation, and the subsequent events, it is evident to me that De Wet was not even there at all. He had left a portion of his force under the command of Hertzog, and he was once more in his favorite hunting-ground round about Reddersburg. Lord Kitchener, nevertheless, reports to London, which has been in a state of suspense for a week, the glad tidings of great success against the wily Boer leader. Next day De Wet is reported at three places some hundred miles distant from each other, and Lord Kitchener and General Knox offer the public no denouncement at all of the play which has excited the interest of the world and of which the climax seemed approaching.

The truth is, that De Wet had only feigned a movement to cross the Orange River, as far as his own immediate command was concerned, and that he had quietly doubled back and occupied a position where, nearly eight months previously, he had distinguished himself by capturing a contingent of the Irish Rifles. That was a practical demonstration that during those eight months British progress in pacifying the Orange River Free State had been nil.

De Wet is shortly afterward found at Thabanchu and General Knox has him hemmed in once more; but De Wet escapes at the critical moment, and makes his way to Winburg and thence to Senekal. This is a district where, in June last, De Wet was hotly pressed by Generals Colville, Clements, Brahan, Clery, Rundle and Hunter, and where, in fact, he was invited to surrender by General Clements. On that occasion De Wet got through very quietly; General Colville was re-

what I have had frequent occasion to observe in South Africa, that guns can never stop a troop of determined horsemen who wish to break through a cordon. They can be held back only by riflemen, stationed in such a way as directly to oppose their passage; and this picture of the great war game has also, again and again, been brilliantly exemplified by the Boers in the course of this dramatic campaign.

The principle of misleading the enemy by a "demonstration" at some position which is not the real point of attack has been applied with great frequency, even a hundred times, by De Wet, not only in his tactics on the actual battlefield, but in the broad, strategic line; and as his mobility is so much greater than that of the English, his knowledge of the country better, and his chances of obtaining correct information from the inhabitants of the district superior, it would seem that he could continue to fool the enemy to the top of his bent forever.

BOER RUSES

Doubtless the tactics employed in crossing the Orange River were similar. De Wet's doubling and return to Reddersburg, and the frantic pursuit by General Knox, left the posts on the Orange River much less formidably guarded than at the beginning of December. Hertzog, following De Wet's example, would probably send up a small detachment of horsemen with a pom-pom, or 15-pounder, to some strongly guarded drift or bridge, and long before he came in sight of the enemy he would begin furiously banging with the gun. This would cause the British troops to rush in from all quarters to resist the long-expected attack; but, warned by the terrible experiences of the past, they would go slow lest they should fall into a trap. They replied, doubtless, with all their artillery, and then pushed riflemen cautiously forward. After some time the Boer gun would be "silenced," which would really mean that it had been taken away quietly to a drift some forty miles lower down, where the main force was already crossing. Then the British, after their fashion, prepare an attack in order and come to closer quarters with their riflemen. The Boers kill a few as they approach, then slip away, mount their horses and vanish, and the British, after capturing their positions, find nothing there. They learn next day that the entire force is raiding Cape Colony, fifty miles away, and set out in frantic pursuit to head them off.

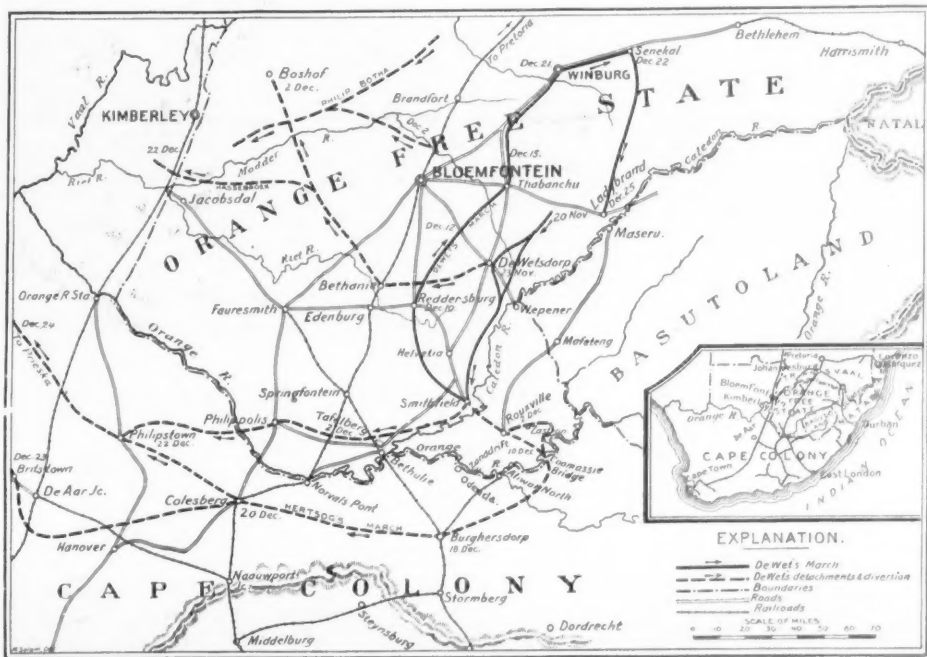
In this way De Wet has not only put two strong separate commandoes in Cape Colony, but he has also sent toward Kimberley another strong body, drawn partly from his own original commando, and from the Vryburg and Rustenburg districts. These forces are capable of suddenly cutting off Kimberley from communication with the outside world, and Bloemfontein is itself menaced.

In the Cape Colony the Boers took the important town of Colesburg, and so set themselves in the position they occupied nine months ago. But they have gone further and have now done what they ought to have done twelve months ago; viz., broken up the line south of De Aar Junction, occupied the surrounding country, overrun Britstown and Prieska, and raised the standard of revolt among the Dutch or Boer population of the British colony. All accounts agree in saying that considerable numbers of the colonists are joining the Boer commandoes, and as the majority of the total population of Cape Colony is Dutch, and that majority is mainly congregated in the districts now apparently at the mercy of De Wet, the situation is certainly a very serious one for England.

To understand thoroughly the state of affairs in Cape Colony, it is necessary to consider also the operations of the Boers in other quarters, for the activity of the burghers in the Transvaal limits the number of men available for the pursuit of De Wet.

DE LAREY KEEPS UP HIS END

About the middle of December, when De Wet was affording to the English generals what they called a "magnificent spectacle" in galloping through their posts without the loss of a man, De Larey suddenly fell on the force of General Clements at Magaliesburg, inflicting great loss, subjecting six hundred of the famous Northumberland Fusiliers to a humiliating surrender, and nearly succeeding in taking the whole English force. Lord Kitchener reports that De Larey had 2,500 men at first, but that later on in the day he was joined by Commandant Beyers with 3,000 men, who, in some mysterious



MAP SHOWING ROUTE OF DE WET'S FAMOUS DASH SOUTH, AFTER HIS ESCAPE FROM THE BRITISH AT DE WETS DORP

called, and shortly afterward General Hunter suffered a humiliating defeat at the hands of the redoubtable Boer chief. It is no more probable now than then that De Wet will be disposed of by the officers he has outwitted so frequently.

The accounts given by the English press, founded as they are at present entirely on the reports of the generals, are confusing and misleading, not particularly of *malice prepense*, but simply because these officers do not know, half the time, where De Wet really is. A study of the movements of his commando as telegraphed from day to day, taken in consideration with the various times and places where his appearance has been notified, shows that De Wet had devised his plans with several objects in view: the first being to get his troops out of a corner too restricted for the operation of a big force, the second to menace the lines of communication to Kimberley if not Kimberley itself, and the third to throw several strong commandoes over the Orange River, all the commanding points of which were held in the beginning of December by imposing English forces. The astute Boer leader not only succeeded in all these objects, but he adorned his theme by several audacious variations, such as the capture of De Wets Dorp, the complete replenishing of his stock of guns, ammunition, commissariat and horses; and the feat of galloping in broad daylight, with the greater part of the entire force under his hand, through the cordon established by General Knox at Thabanchu.

On that occasion he did what he has so often done on a larger scale—he drew off the main force of the British by a feinting attack led by Haasbroek, and then made a sudden dash through an open space, about four miles wide, "commanded," as the authorities no doubt had it on paper, by forts on each side with strong batteries of artillery. De Wet proved once more,

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COUNTESS CASSINI

GERMAN AMBASSADOR

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MRS. McKINLEY THE PRESIDENT



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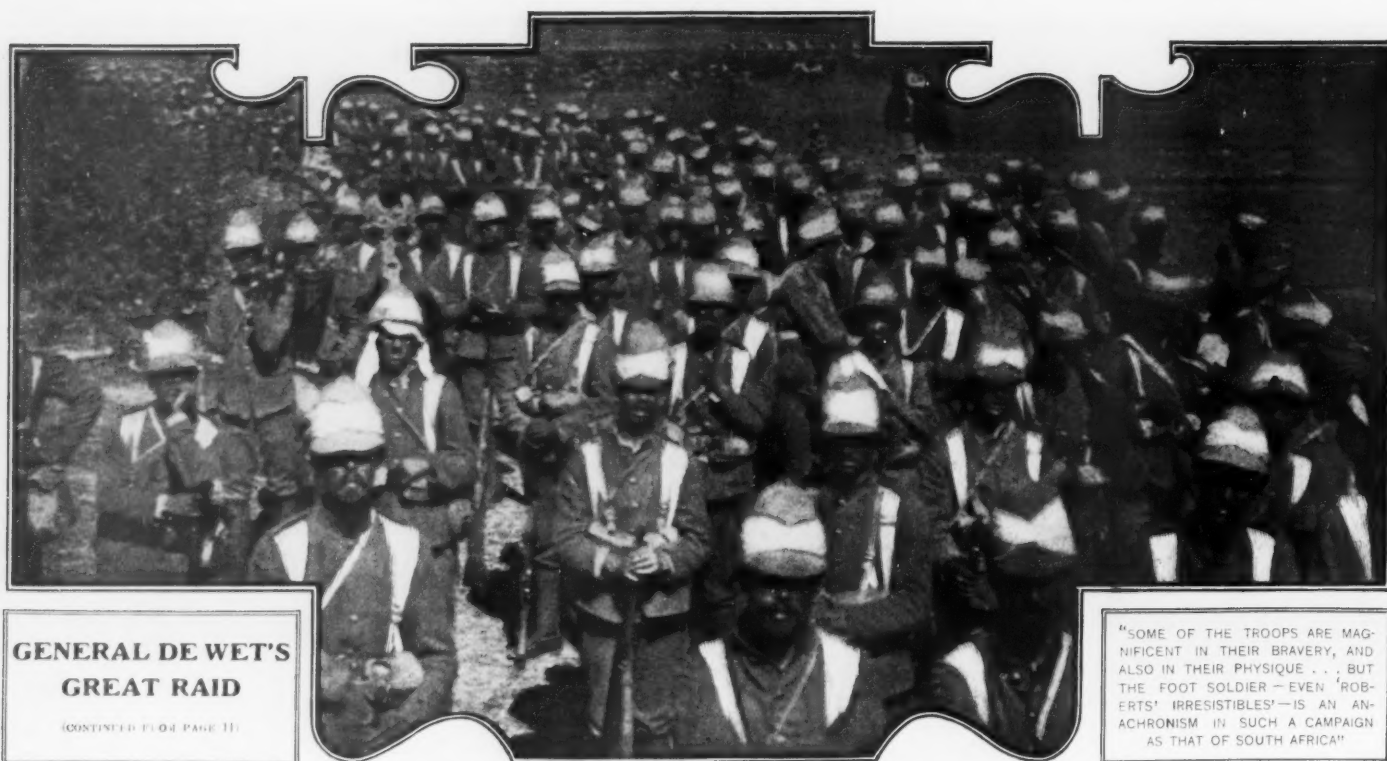
TURKISH MINISTER

A STATE DINNER



MME. DE ASSIS-BRASIL CHINESE MINISTER

DRAWN BY T. DE THULSTRUP



GENERAL DE WET'S GREAT RAID

(CONTINUED FROM PAGE 11)

"SOME OF THE TROOPS ARE MAGNIFICENT IN THEIR BRAVERY, AND ALSO IN THEIR PHYSIQUE... BUT THE FOOT SOLDIER—EVEN 'ROBERTS' IRRESISTIBLES!—IS AN ANACHRONISM IN SUCH A CAMPAIGN AS THAT OF SOUTH AFRICA"

fashion, had suddenly sprung up from Warmbad. Perhaps these numbers are exaggerated, for whereas lately the Boers were described as marauding bands, "criminally" prolonging the war, yet when 600 crack troops surrender and 3,000 more are chased away it is necessary to give the enemy some numerical importance.

Now, if we add up the total of the troops, according to English estimates, we find De Wet's actual force, together with that portion which crossed into Cape Colony, at least 6,000 strong. The force menacing Kimberley and Boshof may be set down at a minimum of 1,000. De Larey and Beyers account for 3,500, and in this estimate no mention is made of Grobler, Lemmer, Theron, and other capable commanders. The Free State Boers, according to the latest British estimates, therefore, cannot be much less than 15,000. But then come the Transvaal Boers. General Louis Botha, the commander-in-chief, has no force under his direct personal command, but he directs the operations and has at his immediate disposal the troops of Erasmus, Ben Viljoen, Christian Botha, and other officers of less note. Christian Botha has been operating at Vryheid, where it was reported, on December 16, he captured 127 British troops. Ben Viljoen is in the Standerton district, where he has frequently cut off the communications between Pretoria and Natal. There are commandos of Boers in Natal itself. Erasmus covers the line between Barberton and Pretoria. At the very lowest estimate, there cannot be less than 8,000 burghers on the Transvaal side. Should, therefore, the Cape Colonists join in any considerable numbers, it is possible that the total Boer force may rise to 30,000 men, and I do not think that it was ever much more in the palmiest days of the war. These figures may be excessive, but they correspond at least to the reports of the English authorities in their pessimistic mood. From the same sources, also, we gather that in one week no less than 1,000 British troops were put *hors de combat*.

THE TERRIBLE SEASON

The next three months I expect to be a very trying time for the English, and that for several reasons. It is now the rainy season, and the rain in South Africa comes down with amazing force. I remember one night, when the retreat from Ladysmith set in, the rain fell with such violence that an English military waterproof cloak, which I was wearing, was of no more use to me in the sense of protection than a muslin robe would have been. Our horses turned from the storm and stood cowering behind what shelter they could get. A small stream, which we crossed almost dry-footed in the morning, had become a raging torrent in which one of our wagons broke down and in which one of our number was drowned.

Now this rainy season rather suits the Boers. Their health does not suffer, nor does that of their hardy little horses. The rain causes the green grass to spring up in the veld, and the Boer horses get fat on that. The young grass, however, is sour, and it kills imported horses if they have to subsist on it. The English horses are tall, big-framed animals, which look very well when in the pink of condition, but which require stall feeding to keep them in form. The mortality among the English horses has been enormous. Moreover, the necessity of carrying fodder for the horses hampers the movements of the troops. The Boer can carry enough bread and biltong (a kind of jerked meat) in the saddle-bags to last him a week. There are very few wagons with the mobile forces of De Wet. Extras are carried on spare pack-horses, with which, according to latest accounts, his burghers are well supplied. The British troops, on the other hand, have immense baggage trains. There was a period when the officers could not even forego their afternoon tea with their china tea-services. Kitchener, no doubt, will put a stop to all that; but still the impedimenta of both the British officers and men is greatly in excess of that of the Boers.

The rain makes the roads almost impassable at times, and mules especially do not like that condition of things. The slow, patient ox, driven by the expert Boers or the 'cute' Kaffirs, will cover in a march of two or three days more ground than the smartest body of British troops can make up in the same time. The difficulty of the roads makes the

transport of artillery very slow and laborious. This does not affect De Wet nearly so much, for he depends far more on his rifle than on the cannon. The Boers are all mounted, whereas the English still persist in taking an altogether absurd proportion of foot soldiers.

BRITISH BLUNDERS

I have been amazed, both during my campaign and in my reading since my return, to observe how steadfastly the English authorities follow stereotyped rules which were obsolete fifty years ago, and how little they learn from experience, even when that experience has cost them the lives of thousands of their men, their own reputations, and the honor and profit of their country. They seemed unable to get out of a groove, and so it happened that the Boer officer, untutored in the science of war, but on that very account forced to analyze the whole conditions as they present themselves and to arrive at a conclusion on a basis of common-sense, always seized the essentials better and became a superior leader of troops to the badly trained British officer. The British officer, as a rule, has shown himself very brave, but personal courage is one of the least of the qualities demanded. And many of the other elements of a good leader have been conspicuous by their absence.

As to the soldiers, there is a wide gap between the good and the bad of the British army. Some of the troops are magnificent in their bravery and also in their physique, but few of them are really first class soldiers. Comparatively few can shoot. Their charging or storming is generally wretched, on account of the bad tactics drilled into them by their stereotyped rules, and also by reason of their inefficiency in the use of the rifle. The best troops have been the Colonials, and especially the Natal Carbineers. They can ride and shoot. The vast majority of English soldiers can do neither, and these are the very essentials of the soldier's trade. Then the British soldier cannot endure foreign climates. The reserve men are very often loafers, men of ruined physique, and of no great "stomach for the fight." The militiamen are too raw.

The British soldier is armed with ridiculous weapons. The famous bayonet charges so often reported were a myth. Fifty expert riflemen could hold their own against a regiment of bayonet-men. The lance is still more useless for such a war as that of South Africa. The dragoon is armed with a carbine instead of with a rifle. The cavalry as cavalry has proved to be valueless. The mounted infantry have been all right. The stories of the English troops riding through De Wet's men, clubbing their rifles and exchanging revolver shots, are probably the invention of some Cockney reporter. The Boers do not carry revolvers.

Finally, although there are very brave troops in the English army, there is a vast contingent which is formed of bad material, physically and morally. Disgraceful flights and disgraceful surrenders on the part of British troops have been frequent in this war.

THE TYPE OF A GOOD SOLDIER

The Boer, strong and sober; able to subsist on little, reducing his accoutrement to the simplest expression; patient; capable of immense exertion, and remaining healthy right through the campaign; a deadly rifle-shot, and depending on his rifle almost entirely; riding a hardy, plucky, springy little horse insured to the climate and the conditions of life which he meets—that is the redoubtable soldier, in spite of his "unkempt" hair.

The Boer officer is generally a very good man in all respects. He represents the best sort of the men, with regard to ability and courage. Even if De Wet were shot, or captured—and that is a contingency that might happen at any time—it would not mean that the campaign was over. De Wet is simply one of the best types of the best Boer leader, but there are others, even on the Free State side, hardly, if at all, his inferior, such as De Larey and Philip Botha; while, not to mention General Louis Botha, who is the greatest of all, Ben Viljoen and Christian Botha are capable of emulating at any time the daring feats of De Wet.

DE WET'S CHARACTER

The British army, like all armies, has one great advantage over the Boer forces, as over all militia, and that is in the sense of discipline. Gradually, and especially since the rise to chief command of Botha and De Wet, this defect has been remedied among the Boers. De Wet is now practically dictator in his own country. He does not call a war council. He hears all the reports from scouts and despatch riders, and he thinks out his plans, and often, without communicating to his officers even his destination, he will give the order to saddle up and follow him. They never fail to obey. The Boers like a stern, decided man of strong will, provided that his intelligence be on a par with these moral qualities. De Wet is essentially such a chieftain. He is now a little over forty, a tall, strongly made, bony man. His countenance, with its somewhat ordinary features, is redeemed by the deep eye, and the general expression of patient thought and indomitable resistance. The attitude, the bearing, the whole look and manner of the man suggest the obstinate and dogged resolution of one who will die fighting, if necessary, but who will never strike his flag.

Great as is his power over his men, he is never violent or even impatient. Good-nature is one of the most prevalent characteristics of the Boers, and nearly all their officers possess that quality. De Wet did not gain his present great ascendancy all at once. Many a time his men have slipped through his fingers under the influence of one of those waves of panic so apt to seize undisciplined troops, and he has been dejected and bitterly disappointed. But he has not exploded his wrath on his followers; he has shown them the example of fortitude, and he has brought them around again; often the very troops which have given way too easily on one occasion have fought like lions when next they have been called upon to face the foe.

De Wet, previous to the war, was a butcher, noted simply for his regular, business-like habits and his honesty. He has proved himself a veritable genius in the leading of irregular troops. De Wet does not think much of the English generals, with the exception of French, who has plenty of dash. Kitchener is certainly a fine soldier, and he is in many respects also a clever commander, but hitherto he has had no success against the Boers. De Wet has no great appreciation of the English soldier, and it may be said of him that during the rush of the English from Bloemfontein to Johannesburg they never pushed De Wet in front of them. He held his ground, and as they swept along he slipped through their various forces. Since then he has been continuously harassing their rear guards, their advanced guards, their outposts and their communications; and his action in this respect has been the salvation of the Boers. He has a great penchant for surprises, and at Sanna's Post drove the crack regiments of Household Cavalry and Tenth Hussars in sudden panic, killing, wounding and taking prisoners nearly 1,000, and losing four of his own men.

DE LAREY

General De Larey is a man of about fifty, rather small for a Boer, of thin features, framed with a beard turning gray, keen eyes, and thoughtful expression. The redoubtable Boer general dresses in ordinary costume, with his shoe tied on, possibly, with a piece of hay-band, and indeed his whole appearance suggests an old farmer "hayseed"; but there has not been a keener or brighter leader produced by the war. He plans long strategic lines very clearly and carries out his plans steadily and with consummate skill. It was he who from the beginning had the right notion of the way in which to fight the English, viz., by attacking their lines of communication. De Larey, though a pensive old man, is a fearless, and at times a dashing leader. He has done great damage to the British both before and since the fall of Pretoria.

Grobler is the artillery leader, a bluff, hearty, fearless man, and a rare good fighter.

Lemmer's forte is rather that of Fabius Cunctator. He can dispute inch by inch the possession of country as well as any officer the Boers possess—a cool, steady-going, plain, but resolute man.

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A REST CURE AT HOME

"YOU MUST have a rest cure," says the doctor, who has been gazing at you in the benevolent manner common to the profession.

You look up, wondering how you are to manage it, for you simply cannot now get away to a sanitarium on mountain-side, in pine land, or by the sea, North or South. To say nothing of John, who is fast bound to his office and whom you will not leave, there are the children, and you have no convenient Aunt Martha or Cousin Mary to stop in and mother them while you are away. And you are not proclaiming it on the housetops, but since you and John straightened out your last cash account, and paid the January bills, the funds in the exchequer have been low, and you cannot afford a trip to California, or Florida, or the Adirondacks, or Bermuda. A rest cure, indeed! You are inclined to laugh in the doctor's face.

But doctors are generally mind readers and can see below the surface. Yours is no exception. As if you had spoken he answers you, and suggests that you take a rest cure just where you are, here at home, and now, beginning with the present hour.

"I do not think you need go away, but you must follow my directions absolutely. In the first place, you are all tired out. Your nerve force has been too heavily drawn upon, and you are suffering from exhaustion.

"You must not be distracted by too many objects which require care. Let your maid put away two-thirds of the pretty things in this room. They need to be dusted, and you must minimize the dusting.

"The room is sunny, and sunshine is medicine. Push your lounge across the brightest corner, and let the little table stand beside it. Read nothing which can tax your mind, but have the illustrated papers and magazines, or a novel or two at hand, and read whenever you like, remembering that the doctor has ordered it and so you are not wasting your time." The doctor pauses, and then, as you are silent, proceeds:

"I advise you to give up your clubs and committees and teas and dinners and funerals and all the other social obligations for six weeks. Don't go where you must meet and talk to people. Let your friends see you infrequently. If you are taking an ocean voyage you would be absent from your usual functions ashore. So pray consider yourself as a person on a voyage for the present. Cut loose from ordinary routine.

"About your breakfast," adds the doctor, "take it before you rise in the morning. Have it brought to your bed; fruit, coffee and rolls will be sufficient. That little eldest daughter, who is so capable and dainty, will supervise the tray and send you a breakfast which will have a tempting look. Half the women in the land would be stronger, sweeter and happier—also easier to live with—if they habitually took the precaution to eat something before they dressed in the morning.

"At eleven o'clock drink a glass of hot milk, in sips, and eat a biscuit. At one o'clock have a chop and a baked potato. Go out after luncheon and walk a little way, or drive, or take a ride in an electric car. Lie down and shut your eyes and relax when you come home—relax every muscle as a child does in sleep.

"Take dinner with John and the family. Go early to bed. And don't worry. A month hence you will be a new woman."

The doctor goes away. And his patient is meaning, I hope, to try the virtue of a rest cure at home.

Many of us, who stagger under the load of semi-invalidism, who are never more than half well, and seldom able to taste the full joy of living, would be made over by cutting off some of our crowding engagements, by eating more and oftener, by ceasing to fret and fidget over trifles, by recognizing the fact that we are not composed of steel and iron, but of nerves and flesh and blood, and by stopping where we are and sitting still with folded hands until we are aware that we are not tired all through any more.

Most important of all, if we could but appreciate it at its true worth, is the sensible injunction not to worry. We let the little things embarrass us; we carry too much anxiety. A woman with a loving heart and a vivid imagination can forecast a sea of troubles for her dear ones, plunging them into desperate situations and distressing herself about things which may never happen. If Eugene, who ought to be at home at six, is detained, and does not come until seven, his mother has seen him caught in a railroad accident, terribly maimed, borne insensible to a hospital, and finally has wept over his coffin and planted flowers on his

grave before his key is heard in the door and his cheery voice in the hall. There is no end to the vagaries and the extravagant insanities of worry. People worry lest they shall spend old age in the poorhouse, lest they shall catch the smallpox, lest they gave a wrong impression when they related an event, lest their stocks shall go down, lest their daughter in the cradle shall grow up and marry a dissipated man, and the worrying frame of mind is like a London fog, so thick that the candles of faith and common sense cannot penetrate its gloom. Don't worry is a good maxim for a new century.

THE CANDY HABIT

EVERY schoolgirl has a good recipe for fudge, and this popular confection is made by the clever and the stupid with equal skill, in the college dormitory and the students' parlor, wherever there are found a girl and a chafing-dish, from Maine to Oregon. Fudge is not altogether bad, especially when it is good; but too much fudge means headache, sallow complexion, languor and indigestion. Then comes cold, complicated by fever. Then lessons drag, and the teachers frown, and mothers, appealed to by both teachers and pupils, are convinced that their Ethels and Katharines are overworked and that they must give up study for a time. Fudge is at the bottom of it—fudge, and cream caramels, and candied cherries, and other delicious sweets, made possible for the young women by a too lavish supply of pocket money.

Used with discretion, candy is not a deleterious article of diet. It reinforces the scanty and limited bill of fare of soldiers and sailors, for instance, and furnishes the sweets they need, adding to their health and vigor. But it should be taken as dessert and not as food; should be eaten immediately after a meal and not between meals. A habit of incessant nibbling at sweets is fatal to digestion and destructive to beauty.

When a prophet shall arise whose word of warning on this score shall be potential with the schoolgirl, we who love her will be very happy in her singularly increased power of assimilating useful knowledge and enduring the labors of term-time.

So far as the children at home are concerned, mothers have the matter in their own hands. To deny sugarplums to children is unwise. Nature craves the heat-producing and stimulating qualities which are compressed in refined sugar. But no child is quite safe if left to himself to decide how much candy he may eat and how often his little fingers may dip into the box. Mothers must be observant, and not suffer the growing boy, with his amazing capacity and omnivorous appetite, to eat more candy than is good for him.

ACTIVITY OF WOMEN'S CLUBS—THE CONSUMERS' LEAGUE

THE relation of means to ends is the one lesson that women have had to learn from their organized activities. The clubs which do most for reform in certain lines have best learned this lesson. The reason is simple enough. The futility of certain club methods of education is slowly discovered. The futility of illogical attempts at reform quickly forces itself upon the most reluctant mind.

There is no work of the women's clubs more fraught with human interest than the efforts of the National Consumers' League. It is sought to minimize the evils of the Department Store and of the Sweatshop; to protect saleswomen from oppression and purchasers of cheap ready-made goods from the danger of disease. Now, in a general way these objects are approved by nearly everybody. But it took both tact and effort, nevertheless, to accomplish anything on this line; and I suppose the most enthusiastic workers in the Consumers' League would readily enough admit that much remains to be accomplished. As Mr. Lowell put it:

"I'm willin' a man should go tollably strong 'agin' wrong in the abstract, fer the kind o' wrong Is others upon, and never gets pitied Because it's a crime no one ever committed; But he musn't be hard on partickeler sins Cos' then he'll be kickin' the people's own shins!"

This was the situation—a condition and not a theory—that confronted the National Consumers' League. Woman dearly loves a bargain, and you couldn't keep her out of department stores even by a proclamation of plague, pestilence and famine. The department store men were neither better nor worse than other merchants, but they were alive to the necessity of keeping down expenses and of buying in the cheapest market. They would denounce the oppression of saleswomen, they would agree with the criticism of

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ETHEL BARRYMORE

"CAPTAIN JINKS OF THE HORSE MARINES"

REVIEWED BY
JOHN D. BARRY



H. REEVES-SMITH

PHILADELPHIA is becoming popular with managers for the trial of new plays, rivaling Bridgeport, Conn. Just why it should be popular, I don't know; perhaps merely because it is within reach of New York. At any rate, Mr. Charles Frohman, after presenting "Barbara Frietchie" here last year and starting it on its career of prosperity, has lately tried another of Mr. Clyde Fitch's pieces, "Captain Jinks of the Horse Marines." In the audience at the Walnut Street Theatre, I observed a number of faces to be seen on first nights in New York, writers and managers and other persons directly or indirectly interested in the theatre. Their presence made me wonder why, in spite of the strong hold the theatre has on people, we do not have better plays.

First a word as to the audience. In appearance it was not noticeably unlike the kind of audience that would be called out in New York on a similar occasion—a little less careful as to dress, perhaps, with a much less conspicuous showing of yellow and Titian-red hair, and a little less quick to catch some of the more sophisticated specimens of wit. In one regard, however, it was distinctly different from a New York audience. The occupants of the gallery made their presence felt. I was so astonished when I heard them that I realized I had almost forgotten the existence of gallery gods and the power they used to wield. These gods laughed; they jeered; they whistled. They ruled. Now in New York, the people in the orchestra and the balcony rule, mildly, to be sure, but still they establish the tone. They either applaud politely or they don't applaud at all. The old fashioned gallery has a much more extensive code of behavior. On the whole, I am inclined to deplore the decline among us of active gallery gods. They could make our first nights much more picturesque than they are. They could at least keep them from being a succession of apparent triumphs in which insincerity is so marked a factor.

The company engaged to present "Captain Jinks of the Horse Marines" was headed by two players who in recent seasons have come conspicuously into public notice—Miss Ethel Barrymore and Mr. H. Reeves-Smith. If the work succeeds, great credit will fall to them. As a rule, managers are afraid to try pieces without a cast containing "star" actors. The play is still the thing, but our public usually insists upon having the widely exploited player, too. Of the two chief parts, by far the more important and more difficult falls to Miss Barrymore. The naming of the play from the chief character—whose name, by the way, has no more to do with the comic song than Mr. Fitch's "Barbara Frietchie" had to do with Whittier's poem—was purely gratuitous. It would much more properly have been called "Madam Trentoni." And it might have been written for a woman "star" who, to use the popular theatrical phrase, had insisted on having all the "fat" for herself. Madam Trentoni is really Miss Aurelia Johnson of Trenton, N. J., "a New Jersey Italian," as she explains to the reporters who have come to meet her at the steamer on her return to this country. Why, by the way, should an opera singer, unmarried and very young—an *artiste*, as Miss Johnson also calls herself—why should she be known as Madam? But I am anticling. Why should many things be that are in this piece? The girl is coming to sing at the New York Academy of Music under the management of Mr. Mapleson, and on the wharf she indulges in all the antics supposed to characterize the arrival on these shores of certain foreign celebrities. She is received by three young men of the town, including Captain Jinks, by a group of reporters, and by two women, one deaf and dumb, representing a social purity league, who wish to dissuade her from making her first appearance in so wicked an opera as "Traviata," suggesting "Faust" in preference. Early in the act, the young men explain that they have formed a conspiracy to lay siege to the heart of the singer. The one who wins her is to share with the others the fortune she is supposed to have amassed. This note of extravagance is sounded at the start. On such a scheme only a melodrama or a burlesque could possibly be constructed. Mr. Fitch quickly makes it plain that he is writing a burlesque, though on the programme he audaciously calls his work a "three-act comedy."

Judged as burlesque, the first act is delicious. If played at Weber & Fields' it would make a hit. The Trentoni cajoles the reporters, sends two of the three young sports off for a walk with her dogs and with her ridiculous old aunt, the respectable American prototype of the aunt in "Zaza," and proceeds to flirt with Captain Jinks. At the close of the act, her foster-father arrives to offer her a somewhat belated welcome. He is known as Professor Belliardi and he is a teacher of the ballet. As the singer starts to drive to the Brevoort House, laden with flowers, waving her hand to her three admirers and making an appointment for the afternoon with the Captain, and disappears, Jinks turns and encounters the custom-house officer whom he has foiled a few minutes before. The curtain falls on the announcement of his arrest.

By the time the action of the second act begins, at the Brevoort House, the singer has lost her heart to the Captain, who, it is explained, had secured a release from imprisonment after some difficulty. Just why he should have interested her is not clear. He is not only a blackguard by his own confession,

but he is also worthless from every point of view. In trying to make the audience accept his protestations of regret for his bargain with his two friends and promises of future good behavior, Mr. Fitch merely converts the character into an uninteresting prig. Consequently, it was very hard for the audience to take that love interest seriously. Indeed, the love-making was greeted with jeers from some of the gallery gods. Equally amusing was the ready acceptance of the situation by the singer's good-humored old father. By this time

the impossibility of the theme as a basis for a serious play has become strikingly evident. The interest drops alarmingly. But Mr. Fitch is too clever to remain serious for long. He proceeds at once to introduce some of that violent comic-relief which he has cultivated in several of his recent pieces. This time it comes in the form of a group of ballet dancers, who, for reasons not made satisfactory to those in the audience familiar with the theatre and its workings, have arranged to rehearse before the prima-donna, about make her first appearance on this very evening. We see them first in street dress, and a very funny sight they are, nearly all middle-aged and hideous. They speedily begin to wrangle and two of them come very near scatching each other's faces. It is Weber & Fields', only much funnier than most of the extravagance to be found at that music hall. Then Mr. Fitch takes up the main thread again, exposing to his heroine the plot in which Captain Jinks is concerned, resorting for the purpose to the most mechanical and trite devices. It would be a waste of time to rehearse in detail the expedients by which the climax of the act is reached, where Aurelia, convinced of her lover's perfidy, is forced by her pride to speak with hysterical bitterness of love and to declare that she will appear that night on the stage and sing as she has never sung before. Mr. Fitch achieves another lurid contrast by bringing on the dancers again while the girl is suffering with disappointment and shame and letting them rehearse before her. They all wear the conventional tights, but several of them have not changed their upper garments. Consequently, an effect is made of ludicrous incongruity. One of them, a faded widow, who laments to Belliardi that all she has left in the world is her legs, capers about with her long mourning veil dangling from her bonnet.

The third act, as may be anticipated, occurs after the heroine's triumph on the stage of the Academy. Her apartment at the Brevoort House is revealed, filled with bouquets and wreaths. Various people, including the ballet dancers and the two reformers, are introduced, all by means of the most extravagant expedients. Captain Jinks, of course, hovers about, trying to secure an interview with his sweetheart. He does secure it, and by persuading her to look into his face and to say that it seems to her to be an honest face, he wins her back. This may seem an unjust interpretation of the scene of reconciliation, but it really is not. A more gratuitous method of getting out of a difficulty I have never seen resorted to in a play.

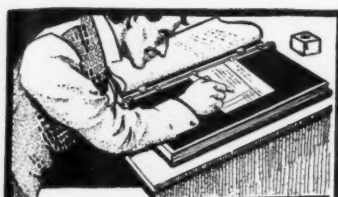
The bare rehearsal of the plot is sufficient to indicate the weakness of Mr. Fitch's work. It is a strange mixture of elements that do not belong together in a piece worthy of serious consideration. A more careful analysis would show that Mr. Fitch constantly lapses into those vulgarisms that injure so much of his writing. His humor makes you laugh, but with a kind of laughter that is not wholly creditable to the humorist. Throughout, Mr. Fitch holds his women up to ridicule, a favorite amusement with him, to which I called attention two years ago in reviewing his "Nathan Hale." "Captain Jinks," like other plays from his pen, is curiously suggestive of the work of a man milliner. Whether it will be accepted in New York is problematical. If it does succeed, it will be in spite of the insincerity of its serious scenes and on account of the fun created by those ballet dancers and by the other burlesque characters. These have convinced me that Mr. Fitch is the best writer of American burlesque that we now have. Weber & Fields would do well to engage him to write their next review.

The success of the night was won by Miss Ethel Barrymore. She must have astonished those people in the audience who had seen her in small parts only. She certainly astonished me. Well, Miss Barrymore ought to have the qualifications that make a good actress; her mother, Georgie Drew Barrymore, was one of the best comedy actresses I have ever seen. Her mother's mother, Mrs. John Drew, was one of the greatest actresses known in the history of our theatre. Her father, Maurice Barrymore, would be one of the strongest actors now on our stage if he took a greater interest in his work and kept himself from falling into mannerisms, and her uncle, John Drew, is the most facile light comedian that we have. Miss Barrymore has been on the stage about five years. She began in John Drew's company, playing a small part in "Rosemary." For one year she had the profitable experience of being associated with Sir Henry Irving and Miss Ellen Terry. Last year, she played, on the road, the character in "His Excellency" which Miss Jessie Millward created in this country, and which taxed all of Miss Millward's remarkable expertness. It need hardly be said that Miss Barrymore looked very beautiful, for she is now recognized as one of the most beautiful women on the stage. The old-fashioned costumes—supposed to have been worn at the time when the action passed, in 1872, when people said "Go West," and employed other phrases out of vogue—if not exactly accurate, at any rate perfectly suited Miss Barrymore. She played the part with great sympathy, delicacy and charm, and with a deliciously girlish simplicity. She has a voice, which, though limited in range, is extremely pleasant, and she is free from even the suggestion of affectation. Her faults are such as may easily be overcome by



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training. She is not as yet at ease on the stage, and she has not learned to carry herself well. Moreover, she needs pretty severe training in diction. At times, she speaks with surprising clearness; then again, she will lapse into an indistinctness that blurs whole phrases. Her best work is done in the first act, by far the best act in the piece, where she has to indicate a curious mixture of sophistication, artlessness and humor. Here she shows that she has inherited some of her mother's comedy spirit. In this regard she makes a most refreshing contrast with Mr. H. Reeves-Smith, whose Captain Jinks, a monotonous part at best, is given no relief whatever. Mr. Smith is one of those comedians who play with a manner of terrible earnestness. Now this manner is well suited to certain kinds of work; but it is not suited to Captain Jinks, which, by the way, cannot really be called a comedy part at all. The company as a whole possesses uncommon merit. Mr. Edwin Stevens has a hard task to perform in trying to make Professor Belliarti the high-minded person that the author evidently designed him to be. If he does not wholly succeed, the fault is not his but the author's. As a characterization, Belliarti is a failure. Miss Estelle Mortimer plays conscientiously the overdrawn character of the singer's aunt, Mrs. Greenborough, and Mrs. Thomas Whiffen actually makes you believe that she takes seriously the impossible old mother of the Captain, who first appeals to the singer not to marry her son, and then implores her to accept him. The second interview, it is worth noting, takes place in the Brevoort House some time after the opera has ended, at one o'clock at night at the earliest. Mr. Fitch is a bold man; he does not hesitate to defy any consideration in his determination to achieve a situation. One of the hits of the performance is made by Mrs. Fanny Addison Pitt, as the pleader for social purity. Mrs. Pitt acts with unctious, a rare quality, and she really becomes the woman she impersonates. The ladies of the ballet are all to the last degree humorous. Miss Anita Rothe is particularly good as the absurd German member, with frowny blond hair and spectacles, but I confess that my heart went out to the lady in widow's weeds.

The three acts are simply but adequately mounted in two scenes. In the first act at the wharf Mr. Fitch is extremely economical of his material. The number of passengers on the European steamer that bore the heroine to these shores seems phenomenally small even for 1872, and the singer must have been disappointed in the small number of people who came to greet her. But illusion is the effect that the author makes an apparent effort to create. As for the costumes, they are all quaint and amusing, especially the men's costumes. I have my doubts about the accuracy of the women's clothes, but perhaps one ought not to be too critical with a dramatist who takes so many liberties. On the contrary, we ought to be grateful to any dramatist who has the courage, in these days of the so-called historical romance, to condescend to write about American life. It is probable that in devising this piece Mr. Fitch got his cue from Pinero's "Trelawney of the Wells," and Mr. Pinero is certainly a good model to follow. Some day, perhaps, we shall have other dramatists less audacious than Mr. Fitch, but more serious, who will be encouraged by his example to enter the wilderness of our American life and do a bit of exploring. They will certainly find plenty of good material.

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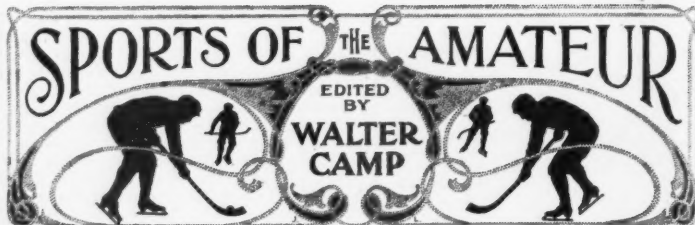
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ICE YACHTING has started in earnest down at Branchport, where the South Shrewsbury Club held its first races of the season. All the races were over the five-mile triangular course, and P. E. Tabers Leroy won the open event for the challenge pennant in the morning and also the race for the championship pennant in the afternoon. W. A. Seaman's *Harold* won the second event for fourth-class boats. The ice was in perfect condition, and a good strong breeze from the northwest made affairs go off with a rush.

THE SAME OLD STORY The rumored action of the Carteret Gun Club regarding the exclusion of any member who shoots against a professional has stirred up a great deal of discussion. Why it should nobody knows, for it is a discussion which has been held so often that the facts must have been pretty well threshed out by this time. There is no country to-day which has a thoroughly satisfactory standard of amateur sport in all branches, and I doubt very much if there ever will be. As I heard a man say to another not many nights ago, "Where will you class a man who wants to row on your crew and who has played golf with his friend for a ball a hole?" The queries are unending, and the discussion may be prolonged to infinity. For all that, there is a gentleman's standard, and it is a pretty good one in this country in spite of all the croakers.

BASEBALL has now seized upon the Cadets in earnest if the reports are true that there is to be a match between West Point and Annapolis, for these two Academies never come together without the feeling of rivalry rising to its highest pitch. Columbia also has gone into baseball more extensively than ever before. Has planned a Southern trip, and will very likely be the first of the university nines to get in condition. A championship series has been arranged with the University of Pennsylvania and also with Brown. It is even stated that the nine will take a trip up into Maine. My only advice to Columbia is not to overdo it.

ICE HOCKEY That ice hockey has by no means lost its interest the early matches of this season are already attesting. The game played between the sevens of the Brooklyn Skating Club and the St. Nicholas Club at the St. Nicholas Rink last week, which resulted in a score of 4-4, was wildly exciting upon many occasions, although team play was by no means as effective as it will be later in the season. The two teams were quite evenly matched, Brooklyn having a bit the better of it in the forwards, while St. Nicholas was especially strong in defence. The lack of team play and the vigorous abandon of the individual player, operating together, pretty effectually tired out both sides before the end of the contest.

Conway of St. Nicholas got the first score by clever dodging and a good drive, and for a time St. Nicholas seemed to have rather the better of it, keeping the puck close to the visitors' goal. Then Brooklyn came up and crowded it down to the St. Nicholas' goal, and had it not been for Hayward's good work, would surely have scored. It was worked back, and Conway made a clever pass to Gordon, who scored the second goal for St. Nicholas. Brooklyn was aroused at last and literally crowded the puck down, Kennedy driving it against Hayward, who, although he partially stopped it, was unable to keep it out of the net. Then Jennison carried the ball down, and Williams tied the score. Gordon followed for St. Nicholas, with a long shot from the centre of the rink, which had gone through McKenzie before he could locate it. But Lifiton evened the score up again by some excellent individual play. Gordon, not to be outdone, shot again with a long drive, thus ending the first half with a score of 4 to 3 in favor of St. Nicholas. Brooklyn went in fiercely in the second half, and Williams succeeded in tying the score, this being the only goal of the half. Both teams were pretty well exhausted toward the end.

While this is on the press the first games of the Intercollegiate Hockey League will have been played—Brown vs. Princeton and Yale vs. Princeton. On January 26, Columbia plays Princeton, on February 2 Yale plays Pennsylvania, on the 7th Brown plays Yale, on the 16th Columbia plays Yale, on the 22d Pennsylvania plays Columbia, and on the 2d of March Columbia plays Brown. At this writing the Yale hockey team, which is making a Christmas vacation trip, seems to have found some pretty hard propositions or else the team is by no means up to the winners of the Intercollegiate League last year. The Yale basketball team also has been piling up some defeats in the Middle West. Hockey in Philadelphia is as full of interest as ever. George Orion, the long-distance runner, is acting as captain of the Quaker City Hockey Club, which took an initial trip to Brooklyn last week and there met the Crescent Athletic Club team. The Brooklynites were altogether too strong for the Philadelphians and defeated them easily, 5-1. But the Crescents have always been pretty good when they got down on the ice and began to shoot. The Western Pennsylvania Hockey League closed up its account with the Yale team on the night of January 5, at the Pittsburgh Athletic Club, winning by a score of 6-2, thus leaving Yale with a series of four games without a victory.

SKATING With the wonderful skating weather which January has brought in, the lakes are crowded, and those who never cared for the sport indoors are making the most of it in the crisp air. Between the "shinney" of the small boy and the ice hockey of the larger youth the expert who loves to do "stunts" finds little room for figure skating. But no matter how many go out of doors it does not seem to diminish the attendance in the rinks and there sports of all kinds flourish with some decidedly unique developments. For instance, at the Clermont Avenue Rink, Brooklyn, last week there were gymnastics sports of all kinds, including potato races and exhibitions by Peter Siniurd of Christiania, Norway, and Sarony, and finally a most exciting three-lap foot race in which the competitors ran with ordinary street shoes on, an exhibition that provoked more fun than anything which has been done on the ice for a long time.

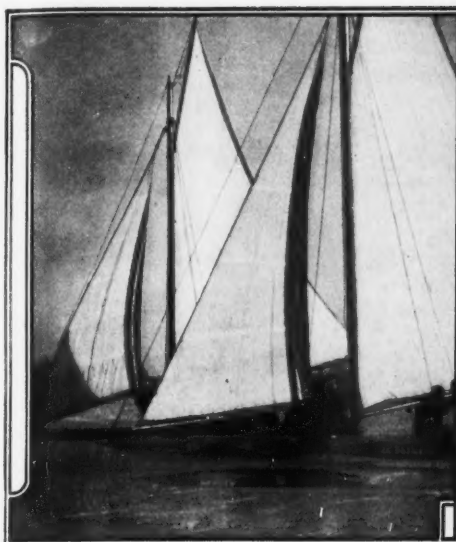
Out in Montclair, skating races brought out those two clever men, Leroy See and Arthur Sarony, besides Siniurd, McDonald and Kearney.

The Pan-American Exposition Committee is taking an interest in basketball, and there is a probability of some intercollegiate contests in that line during the Exposition. This fact has given a new fillip to the interest in the sport at the colleges and has quickened the desire to become members of the team. At Harvard a schedule has been arranged for the team running from the middle of January up to the end of March, containing some twenty games. Among them a game is scheduled with Yale at New Haven, February 19.

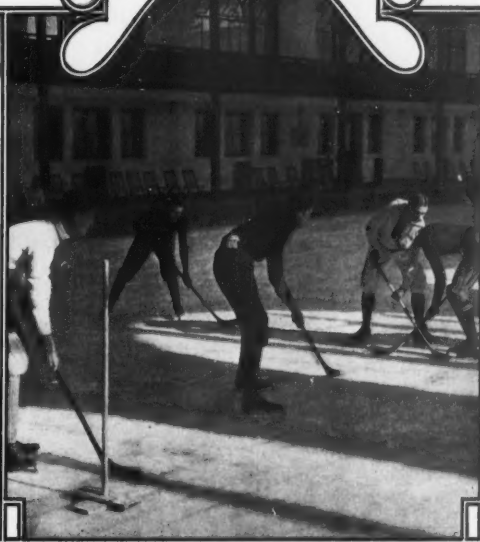
Meantime there is a good deal of discussion as to the best means of making rules that shall operate more effectively, and also as to the adoption of some plan to do away with the unpleasant feeling which seems to be engendered in relation to the number of fouls committed. Far more serious than this, however, is the general morale of the sport which has, upon some occasions, become manifestly of the lowest order, notably in the case of the referee who acted in New Jersey on Christmas night, and whose decisions were not satisfactory to the players of one side, the Trenton team. He was assaulted by one of the Trenton players. There was a good deal of talk at the time and it was believed that severe measures would be adopted in this case at the special meeting of the so-called National League of basketball players held in Philadelphia. It is reported that a decision was reached that there was not enough evidence to warrant any action, and this player was accordingly reinstated. It is also reported that Referee Pratt asked for a hearing, but that he was not called before the body.

There are probably some good reasons for what appears to have been failure to take decisive action, but in that case the League ought to make it clear to the public. A most serious indictment of the game, however, is the fact that this assaulting of officials and general wrangling should be such as to make it necessary to pass a rule to the effect that the referee shall not have power to disqualify a player between the halves, but must prefer charges and file the same with the president to be commented upon at the next meeting of the League. Also, still more serious is the necessity for such a proviso as that the referee is to have protection before and after the game and between the halves.

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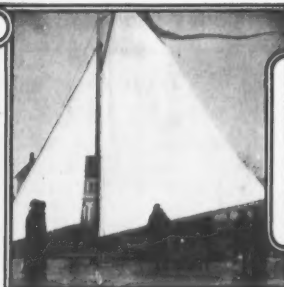
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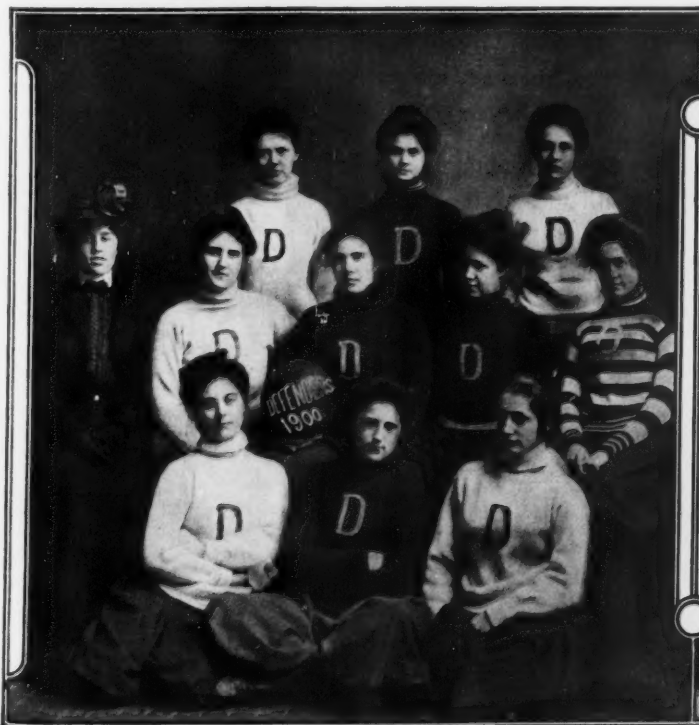
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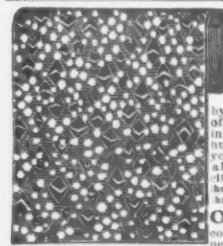
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DOES THE CONSTITUTION GOVERN?

(CONTINUED FROM PAGE 5)

CARLISLE AGAINST THE GOVERNMENT

The closing opposition argument in these cases was that of ex-Secretary Carlisle. The main proposition of the opposing contention is that Congress can do nothing which it is not authorized to do by the Constitution which created it. There are implied as well as express powers, it is true, but in this case it is not necessary to enter into the discussion of the question whether that which is sought to be done may not be implied from some express permission of the Constitution. The bold proposition is made that the Constitution does not govern, so far as the new possessions are concerned, and that in governing them its prohibitions may be disregarded by the agent, who must nevertheless continue to obey them in enacting laws for this country. It is contended that the order of the Constitution is that duties "shall be uniform throughout the United States," and this order Congress cannot disregard, and that, however freely Congress has been permitted to extend the interpretation of the Constitution under the general welfare clause, it cannot actually disobey it.

It is true that the sovereign power in this country, as in other countries, may establish any government it will, but all government in the United States is established by the people, while the powers of all government—State as well as national—are prescribed in Constitutions. These Constitutions are the laws enacted by the sovereign. They not only control the government, directing it in its processes and limiting it in its powers, but bring it into existence. In the States, the Constitutions limit the powers of their governments, whereas the Constitution of the United States grants all the powers which the government can exercise, prohibiting Congress from doing certain things, in that part of it known as the Bill of Rights. The power to acquire territory at all comes from the Constitution, a consequence of the power to make war and the power to conclude treaties. The very power to govern territory is found in the constitutional provision already quoted, and it is illogical to hold that the power to acquire and govern territory is to be obtained from the Constitution, but that the limitations of the same instrument do not apply to these powers; in other words, that the grant of the power to make rules and regulations respecting the territory and other property belonging to the United States is, if the Attorney-General is right, an exception among all the grants, and this exception is not to be found in terms in the fundamental law, but is read into it by way of interpretation, or rather of conjecture, by those whose convenience is now served by the contention. No power but the people can govern any land or any people, except under the Constitution, and the people can act only through amendment to the Constitution.

Mr. Carlisle contends that the Constitution rules over every inch of territory belonging to the United States. An act of Congress is not needed to carry it anywhere. It goes of its own vigor. The fact that acts of Congress respecting a Territory provide that the Constitution and laws of the United States shall govern the Territory and their people so far as they are applicable does not mean that Congress has thereby enacted the Constitution for the Territory. It is a recognition of the fact that the Constitution rules in the Territory, and an extension of the Federal laws that do not conflict with local conditions.

THE ADMINISTRATION'S DILEMMA

In respect of the question before the Court, the right of the people of Porto Rico to equal taxation, this uniformity provision of the Constitution was intended to protect each State or Territory from discriminations in favor of any other State or Territory. The Constitution says to Congress: "You shall not promote the interests of one State or Territory at the expense of another, by levying higher duties in the latter than you impose in the other." Porto Ricans are discriminated against by the tariff law which Congress has made for their island, and its commerce hither is burdened with a tax not levied upon the trade of any other State or Territory. The law which has worked this unjust favoritism may be repealed and another law may take its place providing that all goods entering our so-called colonial ports may be free of duty. Indeed, some articles dutiable here now enter Porto Rico free. If, now, the rule of uniformity applies, such a law would greatly disturb, if not destroy, the protective system of the United States; for, under that rule, goods could not be dutiable here, or dutiable at a high rate, and undutiable, or taxed at a lower rate, in the Philippines.

Here is to be found the underlying motive of the Administration's contention, that in the new possessions duties need not be uniform with those paid here; that Congressional government of them may not only be exclusive but absolute; that the Constitution does not

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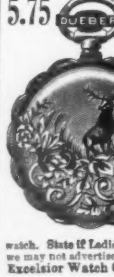
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necessarily follow the flag, which, therefore, for the purposes of governing colonies, is the flag of the Congress and not of the people of the United States. It is well known that the Porto Rican tariff act was dictated and compelled by the beet-sugar and tobacco interests, which, in accomplishing their designs, overthrew the benevolent intentions of Mr. McKinley to bestow upon Porto Rico that right to free trade with every part of the Union which is granted by the Constitution to all people residing within the jurisdiction of the United States. It is the declared intention of the Administration to maintain the "open door" in the Philippines, and, in order to carry out this purpose, it will probably be necessary to lower, or perhaps to abolish, duties upon goods entering the ports of the archipelago. As the rule of uniformity has been denied to Porto Rico for the benefit of the beet-sugar and tobacco interests, so may it be denied to the States in the interests of a freer commerce with the Philippines. But if the Court decides that the flag follows the Constitution, lower duties or free trade cannot be established for the Philippines and not for the States. Here is the pinch of the situation, and the Court is asked to deny the privileges and rights of the Constitution to the people of our distant territories, thereby separating them from the people of the States and of our contiguous Territories, in order that the protective tariff law may be preserved, its beneficiaries shielded from competition with our new subjects, while, at the same time, colonial government may be carried on by our Republican Congress under crown law, and free or freer trade established in the Orient through the maintenance of the "open door" policy in the Philippines and China.

THE LAWS ALWAYS THE SAME FOR STATES AND TERRITORIES

As a historic fact, Mr. Carlisle argues that Congress has never before dreamed that it might deny to the people of the Territories any of the personal rights guaranteed to all the people of the United States by the Constitution. More than this, Congress has never dreamed of excepting the Territories in legislating under the constitutional grants of power. It has never, before the passage of the Porto Rican act, provided for taxes not uniform, but, on the contrary, its general tax laws have run in the Territories as in the States. It possesses the power to regulate commerce between the States, and, under this grant, it has always regulated commerce between States and Territories, and between the Territories themselves. It has the power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States; its naturalization and bankruptcy laws have always applied to the Territories as well as the States. It establishes post-offices and post-roads in the Territories under the authority of the Constitution. Its patents and copyrights run there. It is ordered to take a census of the inhabitants of the country every ten years, upon which is based representation in Congress. Upon this census is based, by direction of the Constitution, every capitation or other direct tax. Although the Territories are not represented in Congress on the basis of the popular enumeration, every capitation and direct tax imposed by Congress is laid "in proportion to the census or enumeration" in the Territories as well as in the States. No preference has ever been given "by any regulation of commerce or revenue to the ports" of a State over those of a Territory, nor has any vessel bound to or from a Territory ever been obliged to "enter, clear or pay duties in another" Territory or another State. Such a provision, however, would be quite in keeping with the spirit of the Porto Rican tariff act. No Territory has ever been permitted to coin money, but it is very likely, if the Court sustains the theory that Congress is absolute over Territories or colonies, that the Philippines and Porto Rico will be permitted to coin silver for their own commercial uses.

These great powers granted to Congress have always been exercised as if they applied to all the territory of the United States as well as to the States. Mr. Carlisle does not concern himself with the form of government which may be established in Territories, but confines himself to the character of the governments that must be established there. Congress may govern Territories, but in so doing it must act in obedience to the Constitution. It must give to their people all the rights which are guaranteed by the Constitution, and its laws must rest equally and uniformly upon them and upon the people of the States. A tariff law for a Territory, therefore, which differs from that obtaining in the States is unconstitutional. Congress may provide a form of government quite different from the State governments. It may make the President himself the executive, or it may give him, as it has always done, the power to appoint the Governor. It may endow that Governor with an absolute veto power. It may make him as strong and independent as is consistent with the limitations of the Constitution, but it can do nothing which that instrument forbids or which disobeys its grants of power. The spirit of our institutions must prevail wherever we govern until the people themselves, by changing their fundamental law, decree otherwise.

The Army of Health

The Army in the Philippines insignificant compared with this one.

If all the people in the United States, Canada and Great Britain who make daily use of Stuart's Dyspepsia Tablets could be assembled together it would make an army that would outnumber our army of one hundred thousand by at least five to one.

Men and women, who are broken down in health, are only a part of the thousands who use this popular preparation, the greater number are people who are in fair health but who know that the way to keep well is to keep the digestion perfect and use Stuart's Tablets as regularly as meal time comes to insure good digestion and proper assimilation of food.

Prevention is always better than cure and disease can find no foothold if the digestion is kept in good working order by the daily use of Stuart's Dyspepsia Tablets.

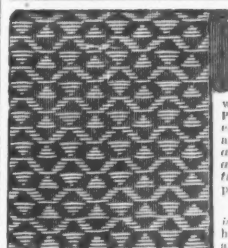
Mr. Thomas Seale, Mayfield, Calif., says: "Have used and recommended Stuart's Tablets because there is nothing like them to keep the stomach right."

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From Mrs. Del. Eldred, Sun Prairie, Wis.: "I was taken dizzy very suddenly during the hot weather of the past summer. After ten days of constant dizziness I went to our local physician, who said my liver was torpid and I had overworked my blood; he doctored me for two weeks without much improvement; I finally thought of Stuart's Dyspepsia Tablets (which I had used long before for various bad feelings) and the first three tablets helped me. They are easily the best all around family medicine I ever used."

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